

CITATION: *6751067 Canada Inc. v. 16002731 Canada Inc.*, 2026 ONSC 4754

COURT FILE NO.: CV-24-97609

DATE: 2026/08/18

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: 6751067 Canada Inc., Plaintiff

-and-

16002731 Canada Inc., Defendant

RE: 16002731 Canada Inc., Plaintiff by Counterclaim

-and-

6751067 Canada Inc., École De Danse Louise Inc. and Details Realty Inc.
Brokerage, Defendants to the Counterclaim

BEFORE: Justice A. Doyle

COUNSEL: Matthew Jarrett for the Plaintiff/Defendant to Counterclaim

Wei Jiang for the Defendant/Plaintiff by Counterclaim

École De Danse Louise Inc. (not attending)

Details Realty Inc. Brokerage (not attending)

HEARD: June 29, 2026 at Ottawa

SUMMARY JUDGMENT DECISION

DOYLE J.

[1] This motion arises out of a failed commercial real estate transaction between the plaintiff, 6751067 Canada Inc., and the defendant, 16002731 Canada Inc., for the purchase of commercial property located at 1480-1488 Stittsville Main Street, Ottawa, Ontario (the “property”).

[2] The plaintiff vendor is requesting summary judgment and that the deposit of \$150,000 be forfeited to the plaintiff as the defendant purchaser did not have a legal basis to terminate the agreement of purchase and sale (the “agreement”).

[3] The defendant is requesting the return of the deposit and argues, among other things, that the plaintiff failed to advise the defendant that its lease with École de Danse Louise Inc. (the “Dance Studio”) was terminated. The defendant was not able to complete the purchase as it could not obtain financing due to a lack of rental income from the aforementioned lease.

[4] The court finds that this matter is suitable for a summary judgment motion as conceded by both parties.

[5] For the reasons that follow, the court grants summary judgment, ordering that the deposit of \$150,000 be returned to the defendant.

Background

[6] On April 21, 2024, the parties entered into an agreement of purchase and sale dated April 19, 2024, whereby the defendant agreed to purchase the property for the contract price of \$2,710,800 with a closing date of August 15, 2024.

[7] The defendant provided a deposit of \$150,000, currently held by Details Realty Inc. Brokerage, a defendant to the counterclaim that was added as a party to ensure enforcement of the judgment but did not participate in the hearing.

[8] Paragraph 19 of the agreement states that “time is of the essence”.

[9] Paragraph 26 stipulates that:

This Agreement including any Schedule attached hereto, shall constitute the entire Agreement between Buyer and Seller. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein.

[10] The parties agreed to only one condition, that the purchaser was to complete a satisfactory commercial inspection of the property by May 3, 2024.

[11] Schedule A to the agreement confirmed that the plaintiff warranted that the existing tenancies listed in Schedule B were the only leases affecting the property. The warranty survived and did not merge on closing.

[12] There were no other conditions or warranties set out in the agreement.

[13] Mr. Sun stated that “we’d like to ask for the operating statement to show the past 3 years of building income and expenses,” and later clarified, “The buyer’s lender required: the operating statement to show the past 3 years of building income and expenses.”

[14] Both the realtor for the defendant, Haifeng Sun, and the plaintiff’s realtor, Mitra Shabani, were involved in the negotiation of the agreement and post-agreement discussions.

[15] The Dance Studio signed a short-form lease agreement dated February 8, 2024, with the plaintiff and provided a deposit of \$19,500 representing three months’ rent (\$6,500 each month). It signed a lease agreement on February 15, 2024, which specified that the Dance Studio had two months to install its fixtures in the unit.

[16] On April 10, 2024, the principal of the plaintiff, Poursan Asgari, emailed the principal of the Dance Studio, Melanie Belair, noting that the two hydro accounts were not placed in the tenant’s name as required by the lease and requesting post-dated cheques.

[17] The Dance Studio never took possession of the unit, and at the time that the defendant’s realtor, Mr. Sun, and the defendant viewed the property for the first time on April 18, 2024, the unit was empty.

[18] At the meeting on April 25, 2024, Ms. Belair confirmed with Ms. Asgari that it would not honour its lease as the unit would require extensive renovations. The Dance Studio decided to enter into a lease at another location which was already equipped for its needs.

[19] Ms. Belair confirmed it in writing that same day and offered a lump sum payment of \$22,035 in exchange for termination of its lease.

[20] On April 30, 2024, Ms. Asgari emailed Ms. Belair to advise that any changes to the lease would have to be negotiated with the new owner, stating that “Bahman (*sic* Ms. Asgari’s husband) and I were advised that we can’t terminate the lease or make any changes to the lease because we are conditionally sold and we agreed in the contract not to make any changes to any of the current

lease agreements. Also, we were advised that for any changes with your contract you should wait until the new owner takes over in a few months.”

[21] Ultimately, the Dance Studio and the plaintiff negotiated the termination of the lease with a payment of \$55,000 from the Dance Studio to the plaintiff.

[22] The inspection of the property by the defendant that took place on April 29, 2024, showed some deficiencies.

[23] On May 2, 2024, Mr. Tao Wang, the principal of the defendant, signed and delivered a notice of fulfilment for the commercial inspection condition, and the agreement became unconditional.

[24] The parties agreed to an amendment to the agreement as follows:

- The agreement would be assigned to the defendant’s numbered corporation;
- The purchase price would be reduced from \$2,710,800 to \$2,680,800; and
- The closing date would be moved up from August 15, 2024 to August 6, 2024.

[25] The next day, May 3, 2024, the plaintiff’s agent, Ms. Shabani, emailed the defendant’s agent advising that the Dance Studio wanted to be released from the lease and asked for the defendant’s position. Ms. Shabani did not disclose that the Dance Studio had not taken possession of the rental premises at the property and that it had signed another lease for another property. Mr. Sun, on behalf of the defendant, responded that the defendant would not agree to let the Dance Studio out of the lease.

[26] The defendant was unable to obtain financing from its bank. The defendant was not successful in obtaining alternate financing through its mortgage agent, James Liu, and Shinhan Bank. The defendant also explored other options, for example, the possibility of financing if there was a settlement agreement whereby the Dance Studio would continue paying rent until a new tenant was found, but this was not possible.

[27] The agreement did not close even with extensions of the closing date. The plaintiff ultimately sold the property to another purchaser for the purchase price of \$2,595,000 on March 5, 2025, which was \$85,800 less than the agreed purchase price between the parties.

Discussion

Introduction

[28] Summary judgment motions are governed by Rule 20 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194.

[29] The legal principles are set out in the leading case of *Hryniak v. Mauldin*, [2014 SCC 7](#), which confirms that the court must determine if there is a genuine issue requiring a trial based on the evidence.

[30] The court finds that this matter is an appropriate case for summary judgment as there is no genuine issue requiring a trial and, based on the record before it, the court can make a fair and just determination, make the necessary findings, and apply the law to the facts. I find that rendering summary judgment is proportionate, more expeditious, and less expensive. The court can achieve a just result on the record before it.

Decision

[31] In *Tse v. Sood*, [2015 ONSC 755 \(Divisional Court\)](#), Justice Perell stated at para. 9 that there are limited reasons as to when a purchaser is not required to close a real estate transaction:

1. the non-satisfaction of a condition precedent that the purchaser will not waive and that cannot be unilaterally waived by the vendor.
2. the vendor has breached a fundamental promise in the agreement of purchase and sale, a term classified as a condition as opposed to a warranty.
3. the vendor cannot perform his or her promise to convey the quality of title prescribed by the agreement of purchase and sale.
4. the vendor has made a false representation and the other elements of a claim for the equitable remedy of rescission are satisfied.

[32] At para. [12](#) of *CanDeal Group Inc. v. Capservco Limited*, 2024 ONSC 1315, Justice Perell summarized the principle of *caveat emptor*:

[12] *Caveat emptor*, “let the buyer beware,” is a statement of legal policy. The law tells a purchaser to protect himself or herself by the law of contract, that is, by bargaining for protections, or by a careful inspection of the property being purchased. The policy of *caveat emptor* warns the purchaser that his or her rights to complain about a property with physical defects do not automatically exist and if they do exist, they may be reduced by the closing of the transaction and by contract terms that exclude liability for representations including representations by silence.

Discussion

[33] The plaintiff has raised several substantial arguments, including that experienced commercial investors should protect themselves by contract and exercise due diligence in the negotiation of the agreement.

[34] I agree that the defendant could have exercised more due diligence in the performance of the agreement:

- only having one condition (inspection);
- no financing condition;
- no representation that the leases would remain in force until closing;
- no warranty that the tenants were in good standing; and
- only a representation that the schedule of leases listed all existing leases.

[35] In addition, the defendant’s principal and his agent personally observed that the unit was vacant before making the offer. A prudent commercial purchaser might have:

- requested tenant estoppel certificates;
- required confirmation that no notices of termination had been given;

- required all leases to remain in good standing until closing;
- inserted a material adverse change clause;
- made financing conditional upon existing income continuing.

[36] Therefore, the defendant is governed by *caveat emptor* and could have negotiated adequate contractual protections.

[37] I agree with the plaintiff that the defendant could not use the inspection condition as a reason not to proceed with the agreement.

[38] A condition precedent must be exercised in good faith, and the inspection condition was intended to satisfy the purchaser as to the physical and environmental condition of the property. As stated in Tse, at para. 15, this condition precedent could not be exercised capriciously or disingenuously:

[39] That is, at para. [15](#), “However, a purchaser may not capriciously or disingenuously rely on the non-satisfaction of a discretionary condition precedent, even if the contract language provides that the purchaser’s discretion may be arbitrary.”

[40] However, I am guided by *C.M. Callow Inc. v. Zollinger*, [2020 SCC 45](#), [2020] 3 S.C.R. 908, where the Supreme Court of Canada confirmed the duty of honest performance of contract.

[41] In that case, the plaintiff, Mr. Callow, had provided winter maintenance for a series of condominiums for a number of years. In the lead-up to the upcoming winter season, the condominiums created a false impression of security of tenure so that Mr. Callow incurred expenses in continuing the maintenance. Mr. Callow did not seek alternative work for the upcoming winter season as he believed that a winter maintenance contract would be forthcoming.

[42] The court found that the condominiums did not exercise the termination clause honestly and were therefore liable for Mr. Callow’s damages.

[43] At para. [90](#), the court found that the concept of “‘misleading’ one’s counterparty ... will in some circumstances capture forms of silence or omissions. One can mislead through action, for

example, by saying something directly to its counterparty, or through inaction, by failing to correct a misapprehension caused by one's own misleading conduct.”

[44] At para. [91](#), the court confirmed that “whether or not a party has ‘knowingly misled’ its counterparty is a highly fact-specific determination, and can include lies, half-truths, omissions, and even silence, depending on the circumstances.”

[45] The issue here is whether, having actual knowledge that a material fact had changed, the plaintiff intentionally allowed the defendant to continue toward waiving the condition while remaining silent, knowing that silence would create or maintain a false impression.

[46] The duty of honest performance prohibits a contracting party from knowingly misleading the other party regarding matters directly linked to performance of the contract.

[47] Importantly, the Court stated that dishonesty may occur through silence where silence knowingly creates or perpetuates a false impression.

[48] For reasons further articulated below, I find that:

- the plaintiff knew before the inspection condition was waived that the tenant had terminated;
- the lost tenant represented approximately 30% of the property's income;
- financing depended largely upon the projected rental income;
- the plaintiff knew the defendant was proceeding on the assumption that the rental income remained substantially intact and, in fact, it led evidence asserting that the defendant knew that the Dance Studio's lease was terminating, which led to a reduction of the purchase price;
- instead of correcting that assumption before waiver, the vendor waited until after the waiver before advising.

My findings

Property was purchased based on the fact that it was an income-producing property

[49] I find that the defendant relied on the MLS listing regarding the amount of income generated from the property that would enable it to obtain financing to purchase the property.

[50] The financial information section of the MLS listing stated that the annual gross income was \$246,028 and the net operating income was \$198,678. I accept that the defendant, as an investor, was interested in the income-producing aspect of this property.

[51] Tao Wang is the principal of the defendant corporation and is a businessman involved in real estate investments, including residential and commercial properties.

[52] He has experience in real estate, having bought multiple properties.

[53] He visited the property around April 18, 2024, with his realtor.

[54] He reviewed leases and property documents prior to making an offer on April 19, 2024.

[55] His first offer was rejected; he agreed to provide a copy of that offer and related documents as undertakings.

[56] Tao Wang discussed his understanding of lease terms, property inspections, and related negotiations. He relied on lease data provided to his bank (that was provided to him by the plaintiff's realtor), which used a multiplier of eight for financing calculations.

[57] He contacted his bank to verify lease income and mortgage feasibility before making an offer.

[58] Before making an offer, Mr. Wang asked his agent to obtain documentation to confirm the income generated. Mr. Sun, the defendant's agent, received the documentation from the plaintiff's agent on April 18, 2024. Mr. Wang then confirmed with his bank that it would approve financing based on the income using a multiplier. It was also important that there was sufficient income generated from the property to pay the carrying costs, including the mortgage payments.

[59] During the walkthrough of the property on April 19, 2024, the plaintiff's agent, Mitra Shabani, orally advised Mr. Sun that there were no issues with the income set out in the MLS listing and the amounts were accurate.

[60] His agent, Mr. Sun, was educated in China and has had experience in Ottawa's real estate market since 2018.

[61] His involvement consisted of reviewing leases, visiting the property, and requesting documents before making an offer.

[62] The defendant did not include a financing condition in the purchase agreement, believing the property's performance was strong. Mr. Sun discussed the strategy of not including a financing condition to potentially lower the purchase price. Text messages indicated the offer was \$2,710,800 with no financing conditions, and the client preferred cash for a discount.

Defendant was not aware of the status of the Dance Studio when it waived the condition in the agreement

[63] I find that the defendant was not aware at the time it delivered the notice of fulfilment for the condition on May 2, 2024, that the Dance Studio was terminating its lease.

[64] The record confirms that by April 10, 2024, Ms. Asgari was aware that the Dance Studio was in breach of the lease for failing to transfer the hydro accounts and to provide post-dated cheques.

[65] Therefore, at the time that the parties entered into the agreement on April 21, 2024, she knew that there may be issues with the lease with the Dance Studio.

[66] It was after the signing of the agreement that is, on April 25, 2024, that Ms. Asgari received an unequivocal repudiation of the lease and learned that the lease was unlikely to be salvaged as the Dance Studio had secured alternative rental premises.

[67] This was not communicated directly to the defendant, who proceeded with the inspection of the property on April 29, 2024. I accept that on the date of the inspection, the plaintiff's agent, Ms. Shabani, told Mr. Sun, the defendant's agent, that the Dance Studio may be wanting to leave.

[68] Ms. Asgari and Ms. Shabani were not able to confirm that the April 25, 2024, email from Ms. Belair of the Dance Studio was ever sent to the defendant.

[69] The filed record of the communications between the plaintiff and its real estate agent does not confirm that the plaintiff's principal even told her own agent that the lease with the Dance Studio was terminated.

[70] The translated text messages (from Arabic) between Ms. Shabani and Ms. Asgari show that Ms. Asgari was attempting to schedule a call from April 27 to 29 but was not able to arrange it.

[71] However, there is no telephone log in the record to determine whether there were any phone calls between the two of them. Those records were not produced despite an undertaking, and no motion for third-party production was brought.

[72] There is a dispute in the evidence. In his affidavit and during cross-examination, Mr. Sun, the defendant's realtor, denies that he was told that the Dance Studio was moving out. He states that during the inspection of the property on April 29, 2024, the plaintiff's realtor, Ms. Shabani, said it was a possibility that the Dance Studio was looking to terminate its lease.

[73] I accept that he told the defendant, but because it was described in uncertain terms, the defendant was not concerned. I accept that had he learned that the lease was not being honoured, then he would not have completed a fulfilment letter. There are no communications definitively confirming that the lease had come to an end.

[74] The plaintiff says it was under no duty under the contract or common law to advise the defendant regarding the standing of the leases as this was not part of the agreement. Yet it has led evidence that the defendant knew that the Dance Studio was terminating its lease.

[75] The plaintiff's agent stated in her affidavit that she told the defendant's agent that the Dance Studio was terminating its lease and that the reduction of the purchase price was a result of an acknowledgement by the defendant of this termination.

[76] In addition, the plaintiff told the Dance Studio that "Bahman and I were advised that we can't terminate the lease or make any changes to the lease because we are conditionally sold and we agreed in the contract not to make any changes to any of the current lease agreements. Also, we were advised that for any changes with your contract you should wait until the new owner takes over in a few months."

The reduction of \$30,000 from the purchase price was unrelated to the Dance Studio lease

[77] I find that the \$30,000 reduction in the purchase price was solely to address the deficiencies and in exchange for an earlier closing date. I do not accept the plaintiff's assertions that it told Mr. Sun that the Dance Studio was terminating its lease, or that the reduction was in exchange for the notice of fulfilment or based on the Dance Studio's desire to terminate its lease.

[78] This is confirmed by the WeChat messages between Mr. Wang and his agent, and then by a subsequent conversation between the agents. The discussion revolves around the negotiations requesting that the plaintiff absorb some of the costs of repairing the deficiencies identified by the inspector.

[79] There is no confirmatory documentary evidence. The amendment reducing the price by \$30,000 makes no mention of the Dance Studio's departure but rather includes the earlier closing date. A notice of fulfilment was also delivered.

[80] If the lease was one of the reasons for the reduction in the purchase price, then given the sophisticated parties and experienced real estate agents, it would make sense that this would have been documented and placed in writing. It is not credible that something as significant as a reduction of approximately 30% of the gross revenue from leases on the property would not be mentioned in the amendment to the agreement.

[81] The text messages between the two agents following the inspection report indicate that they discussed the commercial inspection report, which identified certain issues. The report provided a low remediation cost of approximately \$59,524 and a high remediation cost estimate of \$89,831. Mr. Wang, principal of the defendant corporation, instructed his agent to negotiate a discount of \$37,500, approximately 50% of the average of the two remediation cost estimates.

Summary

[82] I note that this was not the loss of a small tenant, and that a reduction in income of this magnitude affected the defendant's ability to obtain financing.

[83] Although *caveat emptor* remains an important principle in commercial real estate, it does not permit one contracting party to knowingly mislead the other during performance of the contract.

[84] Although there was nothing in the contract that required the plaintiff to make such disclosure, there is a common law principle of good faith and a duty of honest performance.

[85] Here, the plaintiff intentionally remained silent until after the waiver of the only condition because disclosure would likely have prevented waiver of the condition. This silence was dishonest and sufficiently serious to justify the defendant's refusal to complete the agreement.

[86] Ordinarily, the plaintiff as vendor would be entitled to retain the \$150,000 deposit. The defendant is a sophisticated investor and businessman who could have included a clause in the agreement that the leases were in good standing as opposed to a clause that included a list of all the relevant leases. The defendant also had the benefit of an experienced agent, Mr. Sun, who clarified his role in obtaining financing and supporting documents for the client.

[87] However, the plaintiff breached the duty of honest performance by knowingly withholding a material change affecting the property's income until after the defendant had waived the only condition. Although the plaintiff's *caveat emptor* argument is a serious one and courts are generally reluctant to rewrite sophisticated commercial bargains, I find that the plaintiff appreciated that the defendant was operating under a mistaken assumption.

[88] The plaintiff's silence was knowingly misleading in the sense described in *Callow*.

[89] Regarding costs, the defendant is the successful party and is presumptively entitled to costs. If the parties cannot agree on the issue of costs, then the defendant may file its two-page costs submissions along with any offers to settle by August 26, 2026, and the plaintiff may file its two-page costs submissions along with any offers to settle by September 2, 2026. The defendant may file a one-page reply by September 9, 2026.

Justice A. Doyle

Date: August 18, 2026

CITATION: *6751067 Canada Inc. v. 16002731 Canada Inc.*, 2026 ONSC 4754
COURT FILE NO.: CV-24-97609
DATE: 2026/08/18

ONTARIO

SUPERIOR COURT OF JUSTICE

RE: 6751067 Canada Inc., Plaintiff

-and-

16002731 Canada Inc., Defendant

RE: 16002731 Canada Inc., Plaintiff by
Counterclaim

-and-

6751067 Canada Inc., École De Danse
Louise Inc. and Details Realty Inc.
Brokerage, Defendants to the
Counterclaim

COUNSEL: Matthew Jarrett for the
Plaintiff/Defendant to Counterclaim

Wei Jiang for the Defendant/Plaintiff by
Counterclaim

École De Danse Louise Inc. (not
attending)

Details Realty Inc. Brokerage (not
attending)

SUMMARY JUDGMENT DECISION

DOYLE J.

Released: August 18, 2026