IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Rahmani v MNG Builders Inc.,*
2026 BCSC 2030

Date: 20261021
Docket: S258645
Registry: Vancouver

Between:

Hoda Rahmani

Appellant

And

MNG Builders Inc. and Nima Rezaee Moghaddam

Respondent

Before: The Honourable Justice E. Sigurdson

Reasons for Judgment

The Appellant, appearing in person:	H. Rahmani
Representative for MNG Builders Inc. and the Respondent, Nima Rezaee Moghaddam, appearing in person:	N.R. Moghaddam
The Attendee, Hatef Rahmani, appearing in person:	H. Rahmani
Place and Date of Hearing:	Vancouver, B.C. October 5, 2026
Place and Date of Judgment:	Vancouver, B.C. October 21, 2026

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[1] Hoda Rahmani (“Ms. Rahmani”) engaged MNG Builders Inc. and Nica Rezaee Moghaddam (“Mr. Rezaee Moghaddam”) to renovate her condominium in 2021 and 2022. Mr. Rezaee Moghaddam was friends with Ms. Rahmani’s brother, Hatef Rahmani (“Mr. Rahmani”), for about 10 years. Mr. Rahmani assisted Ms. Rahmani at the trial but did not testify.

[2] The renovation took longer than Ms. Rahmani wished, and work was not to her satisfaction. At the end of the process, Ms. Rahmani withheld payment to Mr. Rezaee Moghaddam in an amount that is disputed. Mr. Rezaee Moghaddam then made a claim for payment of $20,120.17. Ms. Rahmani claimed she paid all that was owing, and that due to deficiencies in the work, remediation costs should be offset. Mr. Rezaee Moghaddam says he received lists of deficiencies from Ms. Rahamani immediately after completing the work, and that he fixed all issues that had been identified.

[3] A judge of the Provincial Court of British Columbia found in favour of Mr. Rezaee Moghaddam on October 9, 2025, awarding him the full amount of damages claimed in breach of contract. In her decision, the judge noted that the onus of proof in a civil claim is on a claimant to prove on a balance of probabilities that they are entitled to the damages sought. The trial evidence was challenging. The disputed facts were principally about what amounts were paid. In this case, the parties’ written records were lacking and the trial judge commented that she was put in an awkward position to be asked to determine this case without good records of the parties’ transactions. The trial judge was therefore required to make the decision based on oral testimony.

[4] Based largely upon her assessment of the credibility and reliability of the parties’ testimony, the judge ultimately found she was able to determine the case.

[5] Ms. Rahmani brings an appeal under the *Small Claims Act*, RSBC 1996, c 430 [*SCA*], requesting that this court reverse the decision and remit the matter for a new trial, or alternatively order a different amount in damages based on her arguments.

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[6] I am dismissing the appeal for the following reasons.

Framework for Appellate Review

[7] Under s 5 of the *SCA*, a party to a proceeding may appeal an order of the Provincial Court allowing or dismissing a claim to the Supreme Court. Appellate review is governed by s 12 of the *SCA* which provides that an appeal may review an order on questions of fact and questions of law. It must not proceed as a new trial unless the court orders that it be heard as such.

[8] The applicable standard of review on an appeal of a small claims decision is akin to the standard applied by the Court of Appeal. Findings of fact made at trial are not to be reversed by a reviewing court unless it can be established that the trial judge made a palpable and overriding error that affected the assessment of the facts: *IBI Group v LeFevre & Company Property Agents Ltd.*, 2004 BCSC 298 at para 16.

[9] An appeal court will only interfere with factual findings if the judge has made a manifest error, ignored conclusive or relevant evidence, misunderstood the evidence or drawn erroneous conclusions from it. An appellate court is not entitled to interfere with a trial decision merely because it takes a different view of the evidence*: F.H. v McDougall*, 2007 BCCA 212 at para 2.

[10] This Court can review a decision to ensure the trial judge dealt with important contradictions in the evidence and seized the substance of critical issues: *Mariano v Campbell*, 2010 BCCA 410 at para 50.

[11] The standard of review on questions of law is correctness: *Smithers Parts Ltd. v Hudson*, 2009 BCSC 1645 at para 26, and this Court will only intervene in a decision from the Provincial Court where the trial judge was clearly wrong in apprehending the law or facts.

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[12] Deference to a trial judge is important to achieving the purpose of the *SCA*, which is to allow for the just, speedy, inexpensive and simple resolution of claims: *Sherwood Manor Ltd. v Kihara*, 2025 BCSC 358 at para 22.

[13] On an appeal, this Court has the jurisdiction described in s 13(1) of the *SCA*:

> **Decision**
>
> **13** (1) On an appeal, the Supreme Court may do one or more of the following:
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> (a) make any order that could be made by the Provincial Court;
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> (b) impose reasonable terms and conditions in an order;
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> (c) make any additional order that it considers just;
>
> (d) by order award costs to any party to the appeal in accordance with the Supreme Court Rules.

Issues on Appeal

[14] The appellant Ms. Rahmani filed a preliminary application to be addressed at the hearing of the appeal, which requested that Mr. Rahmani be added as an appellant. I was not given any basis for his addition but allowed Mr. Rahmani to participate in the appeal as an agent or representative. He was permitted to give submissions and assist Ms. Rahmani in making her submissions.

[15] I understood the thrust of this preliminary application to be that Ms. Rahmani sought permission to rely on additional evidence from Mr. Rahmani to address a fairness concern. I was not provided with an affidavit or summary of any proposed new evidence, nor was I persuaded of any reason that would justify the adduction of fresh evidence on appeal pursuant to the analysis in *R. v. Palmer*, 1979 CanLII 8, [1980] 1 SCR 759 (SCC).

[16] On appeal, Ms. Rahmani does not deny that funds were withheld from Mr. Rezaee Moghaddam at the end of the renovation. Ms. Rahmani does say, however, that the amount accepted by the trial judge was not properly proven, and should not be upheld. Ms. Rahmani submits that the trial judge did not properly deal

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with the evidence, did not properly apply the burden of proof, and did not provide a fair trial.

[17] In my reasons below I address each of the issues raised by the appellant, and conclude that the appeal must be dismissed.

Was the trial unfair

[18] Ms. Rahmani argues trial fairness was affected by the judge's conduct in determining how Ms. Rahmani could present her evidence, and in the judge's interference with the way Ms. Rahmani was allowed to make submissions and put in her case.

[19] In *Jimenez v Azizbaigi*, 2008 BCSC 1465, citing *Garry v Pohlmann*, 2001 BCSC 1234, this Court opined on the issue of trial fairness in the Provincial Court as follows:

> [6] The law regarding judicial interventions in cases involving self-represented litigants is well established. With regard to small claims proceedings in particular, Mr. Justice Preston said:
>
> > Given the nature of small claims proceedings, appellate courts have recognized that the role of trial judges in small claims court is often, by necessity, more interventionist. As noted by Farly J. in *Wil v. Burdman (c.o.b. Cingarella Restaurant),* [1988] O.J. No. 2533 (Ont. C.J. – Gen. Div.), the task of a small claims judge is, in general, difficult and it is not inappropriate for a trial judge to attempt to focus and assist the parties by indicating an area of concern to the court. An appellate court must therefore look at the impugned interventions of the trial judge in the context of the overall nature of small claims proceedings when determining if the interventions rendered the trial unfair or created a reasonable apprehension of bias. *Garry v. Pohlmann et al.,* at para. 46.
>
> [7] A trial judge may intervene to clarify witness testimony in order to understand the evidence. A trial judge may assist litigants by directing them away from irrelevancies and indicating what issues are determinative of the matter, or by asking the litigant to focus their questioning of witnesses on legally relevant factual issues. A trial judge may take control of the proceedings when a litigant argues with a witness instead of asking questions, where litigants delay proceedings by repeating the same evidence, or where litigants insist on repeatedly focusing on irrelevancies. The appropriate frequency and forcefulness of interventions will depend on the individual litigant; some will require more assistance than others. The manner

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> in which proceedings should be conducted is left to the discretion of the trial judge. *Garry v. Pohlmann et al.,* at paras. 48-51.
>
> [8] However, where judicial conduct prevents or significantly interferes with a litigant's ability to place his or her case before the court, such that the defendant is prevented from having a full and fair opportunity to place his defence and counterclaim before the court, then the appellate court should order a new trial. *Garry v. Pohlmann et al.,* at paras. 49-51.

[20] A trial judge has a considerable scope in determining trial process. A reviewing court will ask whether the trial judge's conduct, in all of the circumstances, and upon review of the proceedings as a whole, effectively denied a party a fair trial or gave rise to a reasonable apprehension of bias: *Garry* at paras 50-52; *Dhillon v Excellent Ideas of Kitchens Ltd*., 2012 BCSC 1068 at para 81.

[21] The trial fairness issues raised by Ms. Rahmani in this case include that Ms. Rahmani was not entitled to the same evidentiary opportunities as Mr. Rezaee Moghaddam. She also says she was repeatedly interrupted. She asserts she ought to have been allowed to call her brother's testimony. She says that she was not allowed to rely on certain reports on the basis they were hearsay.

[22] On the issue of whether she had a fair chance to put in her evidence, Ms. Rahmani further argues she was not given the same opportunity to rely on email or WhatsApp messages as Mr. Rezaee Moghaddam. She argues that Mr. Rezaee Moghaddam was permitted to rely on previously undisclosed messages in Farsi by reading them into the record, whereas she was not entitled to similarly rely on emails she wished to provide from her phone. Ms. Rahmani submits that Mr. Rezaee Moghaddam was allowed to use WhatsApp messages to fill in evidentiary gaps in his case, when it was clear the court was concerned with his lack of evidentiary proof. She says the court should not have allowed his records to be read in, when hers were excluded because they were not produced in paper form.

[23] Mr. Rezaee Moghaddam says he did not introduce WhatsApp messages into evidence but rather used them to assist his response to questions from the court during his testimony. In referring to them, he says he did not read messages into the record as evidence.

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[24] I have reviewed the transcript of the trial. I remark that it was a challenging proceeding for everyone involved. It was made clear to Ms. Rahmani at the outset that having her brother act as her support person did not entitle Mr. Rahmani to speak or lead evidence. It also meant he could not sit in observation as an assistant and then be called on as a witness to give his own testimony. There was confusion from all parties about what was required to properly enter documentary records, and how such records could be used. Understandably, neither party was experienced in litigation, nor did they understand how to conduct an examination, limits on use of hearsay evidence, or the need for the information to be presented in a coherent and organized manner. Both parties had deficient documentation of their professional arrangement.

[25] The trial judge did her best to keep the process moving forward in a cogent manner. She attempted to ensure questions were answered, and that a clear enough record could be generated, despite everyone speaking at the same time on numerous occasions throughout the parties' testimony. I appreciate from the parties' perspectives that interruptions are not appreciated, but they are sometimes necessary to control process and ensure that a hearing advances properly. The trial judge was also required to navigate the parties' consistent blurring of the line between submissions and testimony. She frequently had to ask the parties to cease providing more evidence after their cases were closed, when they were cross-examining, or even when Mr. Rahmani was making closing submissions for Ms. Rahmani with the court's leave.

[26] In this case, the judge's conduct did not introduce trial unfairness. Her efforts were aimed at achieving fairness for both parties and a reasonably robust record of evidence at trial on which she could rely in making a decision. Numerous interruptions were required to allow the process to continue effectively. In terms of her treatment of the evidence, I am not persuaded that there was an imbalance in the opportunity to adduce records into evidence. Mr. Rezaee Moghaddam was permitted to refer to WhatsApp messages in his testimony but did not introduce them as exhibits. Ms. Rahmani's complaint that the messages in Farsi should not have

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been received by the judge is not well founded. It appears from the testimony that Mr. Rezaee Moghaddam was testifying about the content of the messages but not adducing them as documents. Ms. Rahmani was not foreclosed from doing the same. The judge was not willing to review messages on Ms. Rahmani's phone, but she was not stopped from testifying about the content of the messages.

[27] I find that Ms. Rahmani has not demonstrated a reviewable error in respect of the fairness of the trial.

Whether the trial judge erred in her assessment of credibility

[28] On appeal, a reviewing court gives deference to a trial judge's assessment of credibility. The trier of fact is the jurist with access to observations and in-person assessments that form the determination of credibility. Absent proof of reliance on a prohibited consideration (such as bias, prejudice, stereotype) or some other demonstration of palpable and overriding error, a judge's credibility assessment founded on a properly reasoned basis will generally not be interfered with: See *F.H* at para 121.

[29] The trial judge provided the following approach to the assessment of credibility and reliability she employed, and the criteria she considered:

> [12] This is a case, like many, where the parties have different versions about some of what occurred and how much money, if any is owing. Their different versions cannot both be true and/or accurate, and so I must decide whose version I accept. To do so, I must assess the credibility of the witnesses and the reliability of their evidence. Credibility is concerned with the witness' veracity or sincerity, his or her willingness to tell the truth as they believe it to be. Reliability is concerned with the actual accuracy of the witness' testimony, which involves consideration of the witness' ability to observe, recall and recount relevant events. The assessment of a witness' credibility and reliability must include a critical assessment of the witness' evidence in the context of the evidence as a whole.
>
> [13] The factors I consider in making those assessments include the quality of the witness' memory, any internal or external inconsistencies in the witness' evidence, any consistencies or inconsistencies between the witness' evidence and other evidence that I accept, and whether any inconsistencies that exist are about something important or a minor detail. The real test of the truth of the story of a witness must be its harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions. A trier of fact

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> must also bear in mind that an apparently honest, confident or convincing witness may not necessarily be an accurate witness.

[30] She then held as follows in applying her credibility assessment:

> [14] In this case, the claimant's testimony was relatively simple, straightforward, clear and concise. It was also consistent over time, including under cross-examination by the defendant. He had a good recollection of the scope of the renovation work and the additions, how the renovation progressed and when and how his relationship with the defendant and the defendant's brother deteriorated over time.
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> [15] Although written records produced in court of the defendant's payments were lacking, he had a good recollection of the amounts of the payments and when they were made.
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> [16] The claimant testified that his relationship with the defendant started to deteriorate after the defendant moved into the condominium in December 2021 and that she refused to pay him for the work he had done in part because of the alleged deficiencies and in part because she said she did not have the money.
>
> [17] There were also deficiencies in the documentary evidence the claimant submitted to prove the exact amount of his damages, particularly with respect to the amounts the defendant paid and when; however, those or similar deficiencies were also evident in the documentary evidence submitted by the defendant. Neither party had reliable written records of the payments made by the defendants over time, which I attribute to their unfamiliarity with litigation and the rules of evidence; however, those deficiencies do not prevent me from making a decision in this case.
>
> [18] Overall, I found the claimant to be an honest and reliable witness.
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> [19] The defendant's testimony, on the other hand, was not as straightforward, clear and concise, and there were inconsistencies over time that cause me to have concerns about the credibility and reliability of her evidence.
>
> [20] In particular, the defendant's testimony about how much she and/or brother paid the claimant for the work that he had done, and when, which is one of the most important issues in the claim, was vague and/or unclear, inconsistent over time and improbable.

[31] On my review of the entire transcript, I can understand how the judge arrived at these conclusions. I do not perceive appearance of bias or the application of stereotype. I emphasize that even if I did not come to a similar view respecting credibility on the written record, absent a palpable or overriding error or error in principle it is not for me to interfere with the trial judge's considered in-person

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assessment which is owed broad deference. I give no effect to the ground of appeal on the basis of an error in assessing credibility.

Whether the trial judge failed to properly apply the burden of proof

[32] Ms. Rahmani argues that the trial judge failed to hold Mr. Rezaee Moghaddam to the civil standard of proof. She says that instead of requiring Mr. Rezaee Moghaddam to prove his case on a balance of probabilities, Ms. Rahmani was required to disprove the assertions.

[33] Ultimately the court had to determine whether Mr. Rezaee Moghaddam made out his claim for damages. In doing so, Mr. Rezaee Moghaddam was required to prove on a balance of probabilities that an agreement was made, the amount charged was consistent with the agreement, and that an unpaid balance in a discernible amount remained. In response, Ms. Rahmani argued there were deficiencies that should be offset against the balance. Ms. Rahmani also argued that they paid more than what was accounted for in the final invoice. Ms. Rahmani must prove any facts relied upon, also on a balance of probabilities.

[34] Upon review of the reasons for judgment and the transcript of the trial, I cannot agree with Ms. Rahmani's proposed ground of appeal. The trial judge does point out that both parties' records are deficient. At one point she notes the difficulty in awarding Mr. Rezaee Moghaddam the entire amount claimed without good record keeping. However, the trial judge concludes that on all the evidence available to her she was able to find there was an agreement for renovation work, there were no significant deficiencies proven, and the amounts paid and owing were those put forward by Mr. Rezaee Moghaddam.

[35] The trial came down to credibility because, as the judge concluded, there was very limited documentary evidence. She was required to determine the issues based on the testimony before her and found, based on the evidence before her, she was able to do so. While the documentary record was not sufficient on its own, the documents were not the only source for the trial judge's conclusion that, on a balance of probabilities, it was more likely than not that Mr. Rezaee Moghaddam's

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case was made out. The damages in question were quantified by testimony, and the trial judge found the testimony supporting those damages was credible.

[36] The trial judge also found that the countervailing position of Ms. Rahmani was not proven, and she did not accept it. The judge did not accept Ms. Rahmani's testimony that she and her brother had paid additional amounts toward the balance owing in cash, which had not been documented with a receipt or any other record, and found Ms. Rahmani's account of additional cash payments implausible or inconsistent. She did not accept Ms. Rahmani's suggestion that Mr. Rezaee Moghaddam had caused deficiencies or damages for which Ms. Rahmani could withhold payments.

[37] The burden of proof can be made out by a plaintiff on the admissible evidence that is weighed and considered by the trial judge, and in this case, the testimony of the respondent was given weight due to its credibility. This is not a failure to apply the correct standard of proof, despite the judge's comment that it would be difficult—on the documentary record—to award the full amount of damages. Having considered all the evidence, the judge found it was indeed possible and she did so. This does not constitute an error of law. There was regret on the part of all participants in this proceeding, including the judge, that the parties had not made or retained contemporaneous records that could be relied on. But that fact alone does not make the burden of proof on a balance of probabilities impossible to meet.

Whether the trial judge failed to consider undisputed evidence of loss

[38] Ms. Rahmani argues that the trial judge failed to account in her analysis for evidence that Mr. Rezaee Moghaddam had removed her window blinds during renovation and had not returned them. In her submission, the cost to replace the missing blinds due to Mr. Rezaee Moghaddam's withholding them, should have been treated as a set-off of any amount owing.

[39] Ms. Rahmani characterizes the record as the trial judge having acknowledged the removal of the blinds by Mr. Rezaee Moghaddam. But the transcript shows that while Mr. Rezaee Moghaddam does not outright deny the issue of the blinds, he

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merely testifies that he did not recall the issue of the blinds and did not remember having taken them. The trial judge puts to Mr. Rezaee Moghaddam the proposition advanced by Ms. Rahmani, which is that he removed the blinds and they no longer have them. The judge does not make a finding of fact about Mr. Rezaee Moghaddam having removed them, that he did not take steps to restore them, or that a cost arose as a result of the blinds.

[40] The trial judge concluded in the final result at para 32 that “there were no major deficiencies and/or damage that the claimant caused and left unresolved such that the defendant was justified in withholding any money owed to him”.

[41] Evidence about the blinds was disputed, and the trial judge did not make a finding that Mr. Rezaee Moghaddam had wrongly withheld the blinds. I can appreciate it is unsatisfying that the judge did not clearly find what happened to the blinds. However, the court below made an assessment that this and other alleged deficiencies, including disputed damage to a gas line, did not justify withholding money owing for the renovation. On a balance of probabilities, the trial judge concluded that costs for deficiencies and remediation were not outstanding. Accordingly, Ms. Rahmani has not established on appeal that the trial judge committed a palpable and overriding error in relation to her findings about the blinds or other alleged deficiencies.

[42] The appeal is dismissed and Mr. Rezaee Moghaddam is entitled to costs at Scale B.

“E. Sigurdson J.”

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