Case Name:

379107 Ontario Ltd. (c.o.b. TNT Appliance Service) v. Coinamatic Canada Inc.

Between
379107 Ontario Limited carrying on business as TNT Appliance Service and Golden Coin Vending Services Limited, (plaintiffs/appellants), and
Coinamatic Canada Inc., (defendant/respondent in appeal)

[**2003**] **O.J. No. 5170**

39 B.L.R. (3d) 151

127 A.C.W.S. (3d) 752

Docket No. C38694

Ontario Court of Appeal
Toronto, Ontario

McMurtry C.J.O., Rosenberg and Gillese JJ.A.

Heard: December 17, 2003.
Judgment: December 17, 2003. Released: December 19, 2003.

(4 paras.)

Civil procedure -- Appeals.

Appeal by the plaintiffs from the dismissal of their action for misuse of confidential information. The plaintiffs argued that the trial judge overlooked evidence that showed that the defendant had misused confidential information provided by the plaintiffs.

HELD: Appeal dismissed. The trial judge had made no palpable or overriding error.

On appeal from the decision of Justice Jennings dated July 16, 2002.

Counsel:

Fred Tayar, for the appellants.
Michael E. Royce, for the respondent.

The following judgment was delivered by

1 THE COURT (endorsement):-- We are not satisfied that we should interfere with the decision of Jennings J. who found that none of the confidential material provided by the appellant to the respondent was used by or assisted the respondent in obtaining the Goldlist contract. His finding in this respect is supported by the evidence of the employee of Goldlist most involved in the negotiations with the respondent.

2 The finding is further supported by the evidence accepted by the trial judge that the minimum price agreed upon between Goldlist and the respondent occurred in February 1998 before any confidential information had been supplied by the appellant to the respondent.

3 While the appellant submits that the trial judge overlooked evidence that showed there had been a misuse of the confidential information, we are not satisfied that the trial judge made any palpable or overriding error.

4 The appeal is therefore dismissed and the respondent is entitled to its costs in the amount of $10,000.

cp/e/nc/qw/qlrme