

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20190626**

**Docket: A-52-19**

**Citation: 2019 FCA 192**

**CORAM: WEBB J.A.  
NEAR J.A.  
DE MONTIGNY J.A.**

**BETWEEN:**

**H Aidong Zheng and Haifang Xu**

**Appellants**

**and**

**IRCC  
(IMMIGRATION, REFUGEES AND  
CITIZENSHIP CANADA)**

**Respondent**

Heard at Vancouver, British Columbia, on June 25, 2019.

Judgment delivered at Vancouver, British Columbia, on June 26, 2019.

**REASONS FOR JUDGMENT BY:**

**NEAR J.A.**

**CONCURRED IN BY:**

**WEBB J.A.  
DE MONTIGNY J.A.**

Federal Court of Appeal



Cour d'appel fédérale

Date: 20190626

Docket: A-52-19

Citation: 2019 FCA 192

**CORAM: WEBB J.A.  
NEAR J.A.  
DE MONTIGNY J.A.**

**BETWEEN:**

**H Aidong Zheng and Haifang Xu**

**Appellants**

**and**

**IRCC  
(IMMIGRATION, REFUGEES AND  
CITIZENSHIP CANADA)**

**Respondent**

**REASONS FOR JUDGMENT**

**NEAR J.A.**

[1] The appellants, Haidong Zheng and Haifang Xu, appeal from an Order of the Federal Court (*per* Barnes, J.) dated January 9, 2019 (T-1813-18). The Order dismissed the appellants' appeal from a decision of Prothonotary Aalto (the Prothonotary), which struck their statement of claim against the respondent, Immigration, Refugees and Citizenship Canada (IRCC) dated October 12, 2018 without leave to amend.

[2] The appellants' claim appeared to arise from their allegation of a negative experience with IRCC during the processing of an immigration visa application. The appellants had previously filed two similar claims against the respondent on essentially the same set of facts. These claims were likewise struck by a prothonotary of the Federal Court without leave to amend on July 24, 2018 and October 1, 2018, respectively. The Prothonotary struck the claim underlying the appellants' present appeal on November 28, 2018, finding that it failed to disclose a reasonable cause of action and awarded fixed costs in the amount of \$500.00. The appellants in turn filed a notice of motion to appeal the Prothonotary's decision under Rule 51(1) of the *Federal Courts Rules*, SOR/98-106.

[3] The Federal Court dismissed their motion to appeal with costs payable to the respondent in the amount of \$500.00. The Federal Court found that, even allowing for the fact that the appellants were self-represented and faced English-language barriers, nothing in the claim "could remotely support a cause of action known to law" and that the claim was "a largely incomprehensible listing of perceived administrative grievances none of which, if proven, support an arguable claim in law" (Order at para. 3). The Court further noted that the appellants' repeated attempts to litigate this matter are wasteful of judicial resources, and that they should seek legal advice if they intended to pursue this matter further.

[4] On appeal before this Court, the sole issue is whether the Federal Court erred in refusing to intervene with the Prothonotary's decision to strike the statement of claim. This Court may interfere with the Federal Court's decision if it discloses an error of law, or a palpable and

overriding error of fact or mixed fact and law (*Hospira Healthcare Corporation v. Kennedy Institute of Rheumatology*, 2016 FCA 215 at paras. 66-79).

[5] The appellants have failed to identify any reviewable error in the Federal Court's decision. They assert that the Federal Court was wrong to dismiss their appeal, but do not specify what aspects of the decision are incorrect in law or disclose a palpable and overriding error of fact. Upon review of the record, I find that none are apparent. It is fundamental to the trial process that a plaintiff plead material facts in sufficient detail to support the claim and the relief sought (*Mancuso v. Canada (National Health and Welfare)*, 2015 FCA 227 at paras. 16-20, 26-28). The appellants' claim, however, entails only bald assertions, arguments and theories, without specification or allegation of facts which disclose a cause of action. It was struck by the Prothonotary on that basis. Accordingly, the Federal Court properly upheld the Prothonotary's decision, finding that the appellants' claim, if proven, could not support an arguable claim in law. There is no basis for this Court to intervene.

[6] The appeal is dismissed. The respondent asks for a lump sum of costs fixed by this Court. I would oblige and award costs in the amount of \$1500.00 all-inclusive.

---

"D.G. Near"  
J.A.

"I agree  
Wyman W. Webb J.A."

"I agree  
Yves de Montigny J.A."

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-52-19

**STYLE OF CAUSE:** H Aidong Zheng and Haifang Xu v. IRCC  
(Immigration, Refugees and Citizenship Canada)

**PLACE OF HEARING:** Vancouver, British Columbia

**DATE OF HEARING:** June 25, 2019

**REASONS FOR JUDGMENT BY:** Neare J.A.

**CONCURRED IN BY:** Webb J.A.  
De Montigny J.A.

**DATED:** June 26, 2019

**APPEARANCES:**

Haidong Zheng and Haifang Xu (Self-represented) FOR THE APPELLANTS

Courtenay Landsiedel FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Nathalie G. Drouin FOR THE RESPONDENT  
Deputy Attorney General of Canada