

IN THE MENTOR MUNICIPAL COURT

LAKE COUNTY, OHIO

MENTOR TRAILER PARK, INC.)
)
 Plaintiff)
)
 VS)
)
 HELEN CLARK)
)
 Defendant)

CASE NO. 79 CVG 492

OPINION AND

FILED
JUN 7 3 36 PM '79
MENTOR MUNICIPAL COURT
LAKE COUNTY, OHIO

Defendant's Motion to Vacate is hereby overruled --
no valid reason, legal or equitable, being shown to support
defendant's request. The Lobo case, 73 002d 143, relied upon by
defendant is not applicable as it concerned a situation where the
Court denied a defendant-tenant the right at trial to have time
to file a counterclaim, etc., within the Rules. The present
case had no denial of such; no request was made and trial was had.

Defendant's Motion for Relief from Judgment is over-
ruled and Stay of Execution granted by this Court on May 16, 1979,
is hereby set aside. This Court agrees with defendant that Ohio
Revised Code Sections 3733.09 to 3733.20 are remedial and that
Plaintiff's professed policy of requiring a second owner to move
a bought trailer (mobile home) without regard to age and condition
of such is improper.

However, that is not the question in front of this
Court. The defendant would have this Court require the owner of
a trailer park to keep a non-complying tenant in after restitution
has been granted landlord merely because now the tenant wants to
insist upon having the right to sell the mobile home. It would
be trading one abuse for another. The law does prevent a land-
lord from moving tenant out "solely" because of the sale of a
trailer, Ohio Revised Code 3733.11(H)(2). A look at the rest of
this section clearly indicates the abuse to be remedied is that
of a landlord requiring purchase of trailers (his or others) on
terms only to his benefit. Obviously a non-complying tenant, so

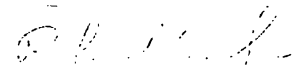
adjudicated, should not now be entitled to such a benefit.

A look at our situation shows no real attempt by tenant to sell trailer before restitution granted. Further, it was 'maybe the son would buy' and one other tentative feeler had been made some two months before. Only after judgment for restitution did three different earnest prospects seek to buy trailer. It should also be noted that plaintiff-landlord could have moved defendant-tenant around May 1st but agreed to give an extension to the end of school.

CONCLUSION

A defaulting or non-complying tenant in a trailer park may not, after Restitution has been granted a landlord, insist on the right to sell the mobile home where such right had not been actively pursued prior to judgment and where notice given some three months before was merely a stated possibility of selling the trailer sometime in the future.

IT IS SO ORDERED.


Richard A. Swain, Judge

cc: Charles E. Cannon
Attorney for Plaintiff

Joseph P. Ulrich
Attorney for Defendant

FILED
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CLERK
MUNICIPAL COURT
MERRIOR, OHIO

IN THE MENTOR MUNICIPAL COURT

LAKE COUNTY, OHIO

MENTOR TRAILER PARK, INC.)
)
 Plaintiff)
)
 VS)
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 HELEN CLARK)
)
 Defendant)

CASE NO. 79 CVG 492

JUDGMENT ENTRY

FILED
APR 11 12 13 PM '79
MUNICIPAL COURT
MENTOR, OHIO

This cause came on to be heard this 27 day

April, 1979, upon plaintiff's complaint,

and upon consideration thereof, and the evidence, the Court finds plaintiff is entitled to judgment for restitution of the premises as prayed for.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that judgment is hereby rendered in favor of plaintiff for restitution. Costs taxed to defendant.

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Richard A. Swain
Richard A. Swain, Judge

APPROVED:

Anthony J. Aveni
Anthony J. Aveni
Attorney for Plaintiff

STATE OF OHIO } IN THE MENTOR MUNICIPAL COURT
COUNTY OF LAKE } NO. 79 CVG 492

I, the undersigned, Clerk of the Court of Lake County, Ohio, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in the files of the Court.

NORMA E. HOLWELL, Clerk of Court

By: Norma E. Holwell
Deputy Clerk