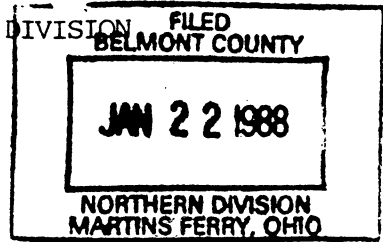


IN THE BELMONT COUNTY COURT, NORTHERN DIVISION



MARTINS FERRY, OHIO

WILLIAM FORSCH and  
LUCILLE FORSCH,

Plaintiffs,

vs.

HELEN MAE GORSHE,

Defendant

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"SPECIAL ENTRY"

Case No. 87CV-G-135

This case came on for hearing, the Defendant having filed an oral motion that the Court lacks jurisdiction to hear the forcible entry and detainer action due to the fact that the lease instrument and promissory note, which are reflected as Plaintiffs' Exhibit 1 and Defendant's Exhibit 1 constitute a land contract and not a lease instrument with option to purchase, as alleged by Plaintiffs.

Upon review of the evidence submitted for this limited purpose, the Court finds that the writing labeled Plaintiffs' Exhibit 1 and Defendant's Exhibit 1 do, in fact, constitute a land contract as such is defined in Section 5313.01 of the Ohio Revised Code. The Court cites, as its authority for such finding, Cuyahoga Metropolitan Housing Authority vs. Watkins, 23 App. 3rd 20, wherein that court stated that a contract which meets the requirements of a land installment contract, as defined in Revised Code Section 5313.01, will be construed as such, even though the contract describes it as a lease with an option to purchase.

This Court finds that the exhibits referred to above constitute an "executory agreement which by its terms is not required to be fully performed by one of the parties to the agreement within one year of the date of the agreement and under which the Vendor agrees to convey title in real property in this state to the Vendee and the Vendee agrees to pay the purchase price in installment payments while Vendor retains title to the property as security for the Vendee's obligation."

This Court finds that the exhibits referred to above are to be read in conjunction with each other and, further, that the parties' intention at the time of their original agreement, or September 13, 1984, was to effect an instrument which satisfies the definition of a land contract, even though

such instrument does not provide each of the minimum contents of a land contract, as called for in Section 5313.02 of the Ohio Revised Code. It is suggested that those minimum conditions more readily apply to the notice requirement due third parties, as opposed to voiding the agreement between Vendor and Vendee in an, otherwise, valid contract to transfer title to real estate and definite purchase price.

Therefore, the Court rules that it does not have jurisdiction to proceed in the forcible entry and detainer action, but that question of title to this real estate has been raised, and this case, therefore, must be filed in the Court of Common Pleas pursuant to Chapter 5313 of the Ohio Revised Code as a forfeiture of a land installment contract.

CASE DISMISSED. The Court declines to address any other issues raised in the Complaint or Answer and Counterclaim due to lack of jurisdiction. Court costs assessed to the Plaintiffs.

Dated this 22nd day of January, 1988.

/s/ John M. Solovan, II  
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Judge John M. Solovan, II  
Belmont County Court  
Northern Division  
Martins Ferry, Ohio

THE STATE OF OHIO  
BELMONT COUNTY) SS:  
I, HELEN VUCELICH, Clerk of County  
Court Northern Division do hereby certify that  
the above is a true and correct copy of the  
original on file in this office.

HELEN VUCELICH,  
Clerk of County Court

By John Hubert Deputy