

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

1618 SOUTH WASHINGTON, LLC,
a Michigan limited liability company,
and ANTONE HADDAD, an individual,

Plaintiffs,

No. 21-000273-CB-C30

v

G & G CAPITAL, LLC, a Michigan limited
liability company, VINCENT GENTILOZZI,
an individual, and BRANDON DAVIS,
an individual,

**OPINION AND ORDER
DENYING MOTION FOR
RECONSIDERATION
OR CLARIFICATION**

Defendants.

At a session of said Court held in Lansing, Ingham
County, Michigan, on Sept. 6, 2022

PRESENT: Honorable Joyce Draganchuk
Circuit Judge

On July 13, 2022 this Court heard oral argument on G&G's motion for partial summary disposition under MCR 2.116(C)(8) and (C)(10) as to Counts I, II, and IV of the second amended complaint. This motion was joined by co-counsel for G&G and counsel for Vincent Gentilozzi, who filed a separate motion entitled "G&G and Vincent Gentilozzi's motion for Summary Disposition "[Filled] as Supplemental in Parts and Independent in parts with co-counsel Brown's Partial Request for Summary [Judgment]." This motion requested dismissal of Counts I-VI of the second amended complaint. It cited to MCR 2.116(C)(8) and (C)(10).

The Court ruled from the bench and a 7-day order was entered on August 2, 2022 that reads “(A) With Count I of Plaintiffs’ First Amended Complaint having been previously dismissed, Count I of Plaintiffs’ Second Amended Complaint is also dismissed, and (B) Defendants’ Motions for Summary Disposition as to Counts II-VI are hereby DENIED.” Now, counsel for G&G and Vincent Gentilozzi has filed a “Motion for Clarification and Reconsideration” asserting that the Court incorrectly denied the motion or did not address Vincent Gentilozzi’s liability.

The Court will address the arguments in the motion for reconsideration or clarification according to the counts in the second amended complaint.

Count II: Complaint to quiet title acquired by part performance

First, Defendants argue that the Court did not address the distinction between part performance to avoid the statute of frauds for a contract for the sale of land and part performance to avoid the statute of frauds for a contract that cannot be completed within 1 year. The Court did address this. Please see the transcript at p. 30-31.

To the extent that Defendants claim this Court committed palpable error, the Defendants have failed to demonstrate palpable error. Defendants only cited to various statutes of frauds and made an argument without any precedent to support their argument. The Court considered the precedent at the hearing and addressed it.

Second, Defendants say this Court did not address how Vincent Gentilozzi would be liable or not under Count II. When Defendants originally briefed this, their argument on this issue amounted to one sentence: “Vincent Gentilozzi does not claim an interest in the property outside his ownership of G&G Capital, thus he cannot be part of a cause

of action to quiet title.” This statement came with no legal support. The Court is not required to go searching for law to support such a statement.

Count III: breach of contract

Defendants say this Court did not address how Vincent Gentilozzi is liable under Count III. The Court did not because there are no allegations against Vincent Gentilozzi under Count III. Defendants recognized that in their original briefing when they said “Count 3 appears to be brought against Mr. Davis only, thus Vincent Gentilozzi and G&G Capital are not liable.” Agreed.

Count IV: Specific performance

Defendants say this Court did not address how Vincent Gentilozzi would be liable under Count IV. In Defendants’ initial brief, the argument about Count IV consisted of 2 grounds. The first basis on which the Defendants say they were entitled to summary disposition dealt with the invalidity of the land contract and the lack of any interest in the property by the Plaintiff. Defendants put forth no argument or law other than: “The elements for Specific Performance require existence of a valid written contract to convey an interest in real estate, performance by the plaintiff – the plaintiff is ready, willing, and able to perform. *Derosia v Austin*, 115 Mich App 647, 321 NW2d 160 (1982) and a breach of the contract.”

To the extent that Defendants were relying on co-counsel’s argument that any claimed interest in land was barred by the statute of frauds, the Court addressed that.

The second claim Defendants made in their brief was that “Plaintiffs were unable to perform in so many ways, including the failure of a condition precedent in gaining of a

marijuana license on top of the fact the failure to enter into a valid land contract that gives an interest in the property to Plaintiffs.”

The only new issue this raises is failure of a condition precedent. If this statement is a matter of law, Defendants cited no law. If this statement is a matter of fact, Defendants cited to no factual support as would be required in a (C)(10) motion. There was nothing for the Court to address.

Count V: Intentional interference with contract

Defendants say this Court did not address how Vincent Gentilozzi would be liable under Count V. In Defendants’ initial brief, the argument about Count V raised again the issue of Plaintiff’s interest in the land, which the Court addressed. In addition, Defendants said:

- “Ps cannot show that Vincent Gentilozzi did anything to interfere with a contract.”
- Placement of a competing offer by G&G to purchase the building was not improper – it’s competition
- No intent to bring about a breach of contract

Again, if these are statements of matters of law, Defendants cited no law. If these are statements of fact (which it appears two of them would be), then Defendants cited to no factual support as would be required in a (C)(10) motion. Defendants were the moving parties and bore the initial burden under (C)(10).

Count VI: Trespass

Defendants say this Court did not address how Vincent Gentilozzi would be liable under Count VI because he was not a party to any contract. In Defendants’ original briefing, Count VI was challenged on the grounds that Plaintiff had no interest in the property. The Court’s ruling covered that. Furthermore, Count VI alleges that Vincent

Gentilozzi or his agent broke a lock on the property. The allegation is based on individual tortious conduct.

A motion for reconsideration requires a showing that the Court committed palpable error. There is no such showing here. A motion for reconsideration is not the method for raising new issues or complaining about issues that were not briefed or supported the first time around.

Defendants' motion for reconsideration or clarification is denied.

/S/

Joyce Draganchuk (P39417)
Circuit Judge

PROOF OF SERVICE

I hereby certify that I served a copy of the above Findings of Fact and Conclusions of Law upon the attorneys of record by placing said document in sealed envelopes addressed to each and depositing same for mailing with the United States Mail at Lansing, Michigan, on September 6, 2022.

/S/

Michael Lewycky
Law Clerk/Court Officer