Court of Appeals, State of Michigan

ORDER

TODD LEMMEN V FALCON CUSTOM HOMES INC

Docket No. 381445

LC No. 24-011840-CK

Randy J. Wallace
Presiding Judge

Michelle M. Rick

Allie Greenleaf Maldonado
Judges

The motion for immediate consideration is GRANTED.

Pursuant to MCR 7.205(E)(2), in lieu of granting the delayed application, which was timely filed, MCR 7.205(A)(4)(a), the April 16, 2026 order and the June 10, 2026 opinion and order are VACATED to the extent they required defendant-appellant Falcon Custom Homes, Inc., to repay the deposit by April 26, 2026, and July 23, 2026, respectively. "[E]xecution may not issue on a judgment and proceedings may not be taken for its enforcement until 21 days after a final judgment (as defined in MCR 7.202[6]) is entered in the case." MCR 2.614(A)(1). The purpose of the automatic stay is to preserve the status quo during the period an aggrieved party has to file posttrial motions or an appeal. *In re Contempt of Calcutt*, 184 Mich App 749, 755; 458 NW2d 919 (1990). The April 16, 2026 order deprived defendants of the protections afforded by MCR 2.614(A)(1). The order had the potential to invite—and did invite—plaintiffs to take steps to execute on the partial judgment or to initiate proceedings to enforce the partial judgment before entry of a final judgment. After the April 26, 2026 date passed without Falcon Custom Homes repaying the deposit, plaintiffs moved the trial court to hold defendants in contempt for failure to comply with the April 16, 2026 order and they asked the trial court, in part, to compel Falcon Custom Homes to immediately repay the deposit. Plaintiffs' reliance on *Kalkman v City of the Village of Douglas*, unpublished per curiam opinion of the Court of Appeals, entered September 20, 2012 (Docket No. 306051), p 7, for the proposition that MCR 2.614 does not apply because Falcon Custom Homes was only ordered to return money that it held in trust for plaintiffs is misplaced. Unlike in *Kalkman*, the trial court did not grant injunctive relief. It entered a money judgment. MCR 2.614(G) does not apply to the case. The trial court did not direct under MCR 2.604(B) that the April 16, 2026 order constitutes a final order. MCR 2.614(G).

This order is to have immediate effect. MCR 7.215(F)(2).

Randy J. Wallace
Presiding Judge

A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

July 21, 2026
Date

Jerome W. Zimmer Jr.
Chief Clerk