

VILLAGE GREEN MANOR V. WHITMIRE, ET AL., C.P.
Franklin County Branch, NO. A.D. 1990-424
*District Justice Jurisdiction - Mobile Home Park Rights Act -Eviction
-Landlord Tenant Act*

1. A district justice has jurisdiction in tenant eviction matters under the Landlord Tenant Act.
2. The Mobile Home Park Act grants special rights to residents of mobile home parks not granted to other tenants.
3. While there is no express amendment of the Landlord Tenant Act by the Mobile Home Park Act does have that effect and the district justice has jurisdiction for eviction of mobile home tenants.

David C. Cleaver, Esq., Attorney for Plaintiff
Legal Services, Inc., Attorney for Defendant

KAYE, J., September 13, 1991:

OPINION

This proceeding arises from an action filed in District Justice Court by Village Green Manor ("plaintiff") against William Whitmire and Karen Whitmire ("defendants") seeking an order of possession for a mobile home lot leased by plaintiff to defendants, pursuant to Pa. R.C.P.D.J. No. 501 et seq. Following a verdict for plaintiff, defendants filed a praecipe for writ of certiorari in the Office of Prothonotary as provided for in Pa. R.C.P.D.J. No. 1009, alleging a lack of jurisdiction by the District Justice over the subject matter of litigation. The writ issued and the matter, after several continuances requested by counsel for the parties, was argued before the Court on September 5, 1991.

The sole question to be decided is whether District Justices have jurisdiction in cases involving eviction proceedings in mobile home parks.

In addressing this issue, we first of all note that District Justice Court is a creation of the Pennsylvania Constitution, Art. 5, §7. In the constitutional provision creating the Court, it is provided that, "[t]he jurisdiction of the justice of the peace¹ shall be as

¹ Now known as District Justice, 42 Pa. C.S.A.

provided by law."

By statute, the district justice jurisdiction is as follows:

(a) *Jurisdiction.* - Except as otherwise prescribed by general rule adopted pursuant to section 503 (relating to reassignment of matters), district justices shall, under procedures prescribed by general rule, have jurisdiction of all of the following matters:

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(2) Matters arising under the Act of April 6, 1951 (P.L. 69, NO. 20), known as "The Landlord and Tenant Act of 1951",² which are stated therein to be within the jurisdiction of a district justice . . .

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42 Pa. C.S.A. §1515.

Although they make various arguments, and present their arguments in a most cogent way, the thrust of the argument is that the proceeding brought by plaintiff against defendants was instituted not under The Landlord and Tenant Act of 1951, but rather under "The Mobile Home Park Rights Act", 68 P.S. §398 et seq. ("Mobile Home Park Act"), and that the District Justice Court thus did not have jurisdiction to enter an order of possession in this matter. The parties have not found any prior decisional authority on the issue raised herein, and our independent research has not disclosed such authority. Thus, we believe this to be a case of first impression in the Commonwealth.

Defendants argue that The Mobile Home Rights Act is "an independent organic statute, not amendatory of The Landlord Tenant Act." While we generally are disinclined to quibble over terminology, we think a word or words of art such as "organic statute" must be used advisedly and circumspectly. An organic law is the fundamental law of a state or nation which defines and establishes the organization of its government, i.e. a constitution. *Black's Law Dictionary* 991 (5th ed. 1979). While the act in question obviously is significant, we reject the notion that it is an organic statute or law.

² 68 P.S. §250.101 et seq. ["Landlord Tenant Act"].

Although The Mobile Home Park Act does not expressly amend The Landlord Tenant Act, it appears that that is precisely its effect with respect to the class of persons affected by the former Act. Certainly, The Mobile Home Park Act grants special rights and protections to residents of mobile home parks that are not provided for tenants of other types of habitation; however, we find nothing in the conferral of such additional rights to be inconsistent with the continuing grant of jurisdiction to district justice courts in eviction proceedings under The Landlord Tenant Act.

In the only reported appellate decision to date construing The Mobile Home Park Act, Superior Court noted:

The purpose of this legislation is to give special protection to mobile home owners in mobile home parks. One reason for the distinction between mobile home park owners and other landlords is the hybrid type of property relationship that exists between the tenant who owns the home and the landlord who rents only the lot on which the mobile home sits. In most instances a mobile home owner in a park is required to remove the wheels and anchor the home to the ground in order to facilitate connections with electricity, water and sewerage. Thus it is only at substantial expense that a mobile home can be removed from a park with no ready place to go. The legislature, while recognizing the right of the mobile home park owner to establish and public reasonable rules and regulations relating to tenants in the park, has sought to prevent arbitrary evictions at a substantial expense to park residents.

Malvern Courts, Inc. v. Srepbens,
275 Pa. Super. 518, 522, 419 A.2d 21, 23 (1980).

Those legislative goals would in no way be impinged were we to find that the District Justice Court retained jurisdiction under the provisions of 42 Pa. C.S.A. §1515(a) (2), with The Mobile Home Park Act conferring significant additional rights and protections to the class of individuals defined therein. While the eviction proceedings themselves would continue to be brought under The Landlord Tenant Act, in those cases in which the litigants are, as in the instant case, subject to the additional provisions of The Mobile Home Park Act, those additional provisions and protections must, of course, be complied with.

While The Mobile Home Park Act clearly alters the rights and remedies of the parties in situations where the Act is applicable, its content did not alter the essential landlord-tenant relationship in a mobile home owner-renter, mobile home park-lessor situation, nor did the Act pre-empt, or purport to pre-empt, the provisions of The Landlord Tenant Act where this relationship exists. For instance, The Landlord Tenant Act contains a Statute of Frauds provision which requires leaseholds of more than three years to be in writing. 68 P.S. §250.202. There are numerous other provisions of the 1951 Act which are not contained in The Mobile Home Park Act. If defendants were consistent in their argument, we would be compelled to find that these provisions were inapplicable to their situation.

We reject defendants' argument, and find that the District Justice Courts have jurisdiction to entertain actions seeking possession of real estate where The Mobile Home Park Act is applicable.

ORDER OF COURT

NOW, September 13, 1991, the writ of certiorari issued in this case is **DISMISSED**.

Exceptions are granted to defendants.