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Scotland Fuels v. Jahan and Khan

SCOTLAND FUELS, INC., Plaintiff, v. SHOUKAT JAHAN
and LAEEQ A. KHAN, wife and husband, Defendants
Court of Common Pleas of the 39th Judicial District of Pennsylvania,
Franklin County Branch
Civil Action - Law, No. 2003-2820

Contract; Arbitration; Preliminary Objections; Agreement for Alternative Dispute Resolution

1. When addressing preliminary objections, the court must consider as true all well-pleaded material facts set forth in the complaint of the non-objecting party, and all reasonable inferences must be drawn from those facts.
2. A preliminary objection may be filed to any pleading for inclusion of scandalous or impertinent matter.
3. Impertinent matter is defined as matter irrelevant to the material issues of the case and which, whether proven or not, or whether admitted or not, can have no influence in leading to the decision of the case.
4. A preliminary objection may be filed where there is an agreement for alternative dispute resolution.
5. Because there is nothing within the four corners of the two contracts to unify them into one, the Court finds that they are separate and distinct agreements even though they were signed on the same day and pertain to the same piece of real estate.
6. Because the Court finds that the two contracts entered into by these parties on the same day are separate and distinct agreements, each agreement must be satisfied on its own terms.
7. The alleged breach by one party under one of the agreements does not justify a breach under the other agreement by the other party; therefore, it is irrelevant to argue that the other contract was allegedly breached by one of the parties when that contract is not the subject of the litigation.
8. Because the Court finds that the two contracts entered into by these parties are separate and distinct documents, the alternative dispute resolution clause that is included as a term in one of the contracts does not carry over to the other contract; therefore, the plaintiff may bring suit under the contract that does not contain the alternative dispute resolution clause.

Appearances:

Courtney J. Graham, Esq., *Counsel for Plaintiff*

Leslie D. Jacobson, Esq., *Counsel for Defendants*

OPINION

Walker, P.J., September 6, 2005

Procedural History and Factual Summary

On or about June 19, 2000, the Plaintiff, Scotland Fuels, Inc., entered into a lease agreement with the Defendant, Shoukat Jahan (hereinafter "Jahan"), in which she agreed to lease a certain piece of real property from the Plaintiff. The Defendant, Laeeq Kahn (hereinafter "Kahn"), guaranteed the performance of the lease. The Plaintiff alleges that Jahan defaulted under the lease agreement by failing to pay the rental payments as stipulated in Paragraph 3 of the lease agreement. On August 4, 2003, the Plaintiff

served Jahan with a notice in writing advising her of the default. On November 14, 2003, the Plaintiff filed a Complaint for Ejectment. The Plaintiff alleges that Jahan has remained in possession of the property after notice to quit.

In their Answer, New Matter, and Counter Claim, the Defendants allege that on or about June 19, 2000, the parties also entered into an Agreement of Sale in which the Defendants agreed to purchase this same piece of real estate from the Plaintiff. In their New Matter, the Defendants raised the defense that the Plaintiff has allegedly breached its duties under the Agreement of Sale. The Defendants initiated a counter claim against the Plaintiff for monies allegedly spent in reliance of the Agreement of Sale. The Plaintiff has now filed preliminary objections in response to the Defendant's New Matter and Counterclaim.

Discussion

When addressing preliminary objections, the court must consider as true all well-pleaded material facts set forth in the Complaint of the non-objecting party, and all reasonable inferences must be drawn from those facts. Werner v. Zazycyny, 545 Pa. 570, 681 A.2d 1331 (1996). The Plaintiff argues that the Defendants' allegations regarding the Agreement of Sale are irrelevant and impertinent to this case. The Plaintiff also argues that the Counterclaim should be dismissed because the parties agreed to resolve any claims, except for equitable claims, relating to the Agreement of Sale through arbitration. The Defendants argue that the preliminary objections should be overruled because the lease agreement and the Agreement of Sale are parts of a single transaction. The Defendants also argue that either both parts of the agreement are subject to arbitration or the Plaintiff has waived its right to demand arbitration by initiating this suit.

I. Are the Defendants' Averments 12 through 18 in the New Matter irrelevant?

Pa.R.C.P. 1028(a)(2) states that a preliminary objection may be filed to any pleading for "inclusion of scandalous or impertinent matter." Impertinent matter is defined as matter irrelevant to the material issues of the case and which, whether proven or not, or whether admitted or not, can have no influence in leading to the decision of the case. 5 Standard Pa. Practice 2d § 25.62. The issue before this Court is the Complaint for Ejectment that was filed by the Plaintiff in an attempt to recover possession of the property.

This Court finds that the lease agreement and the Agreement of Sale are two separate documents and transactions because there is nothing within the four corners of these documents to unify them into one. Each of the agreements between the parties is distinct and must be satisfied on its own terms. The alleged breach by one party under one of the agreements does not justify a breach under the other agreement by the other party; therefore, it is irrelevant to the Complaint of Ejectment whether or not the Plaintiff breached the Agreement of Sale. This Court finds that Paragraphs 12 through 18 of the Defendants' New Matter must be stricken as impertinent.

II. Is the Defendant entitled to bring their Counterclaim?

Pa.R.C.P 1028(a)(6) states that a preliminary objection may be filed where there is an ". agreement for alternative dispute resolution." The parties agreed to resolve any claims, except for equitable claims, relating to the Agreement of Sale through arbitration; therefore, this Court does not have jurisdiction to address the Defendants' claim for monetary damages under the Agreement of Sale.

Because this Court finds that the lease agreement and the Agreement of Sale are two distinct documents, this Court also finds that the Plaintiff was entitled to bring suit to regain possession of the property. Paragraph 17 of the lease agreement entitles the Plaintiff to recover possession of the property through any judicial proceeding as may be available for that purpose, which includes a Complaint for Ejectment.

Conclusion

This Court grants the Plaintiff's preliminary objections and hereby dismisses the Defendants' Counterclaim and strikes Paragraphs 12 through 18 of the Defendants' New Matter. Furthermore, this Court denies the Defendants' request for leave to amend their Answer.

September 6, 2005, the court having granted the preliminary objections of Scotland Fuels, Inc., the Court orders that the counterclaim against Scotland Fuels, Inc. be dismissed and that Paragraphs 12 through 18 of the defendant's new matter be stricken. The Court denies defendant's request for leave to amend their answer.