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2015 IL App (3d) 150043-U

Order filed October 21, 2015

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2015

JOLIET PARK DISTRICT, an Illinois Municipal Corporation,	)	Appeal from the Circuit Court of the 12th Judicial Circuit, Will County, Illinois.
Plaintiff-Appellee,	)	
v.	)	Appeal No. 3-15-0043 Circuit No. 13-LM-2498
BRYAN WARD d/b/a SOUTH SUBURBAN AVIATION,	)	
Defendant-Appellant.	)	The Honorable Brian E. Barrett, Judge Presiding.

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JUSTICE LYTTON delivered the judgment of the court.  
Justice Carter concurred in the judgment.  
Presiding Justice McDade dissented.

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**ORDER**

¶ 1 *Held:* Trial court did not err in granting lessor possession of airplane where airplane had been on leased property but lessee moved it elsewhere on lessor's property after lessor filed forcible entry and detainer action.

¶ 2 Plaintiff Joliet Park District filed a forcible entry and detainer action against Defendant Bryan Ward d/b/a South Suburban Aviation. The trial court granted judgment in favor of Plaintiff and ruled that Plaintiff could take possession of the leased property, as well as an

airplane that had previously been on the leased property but that Defendant had moved to another location on Plaintiff's property. Defendant appeals, arguing that the trial court had no authority to grant Plaintiff possession of the airplane. We affirm.

¶ 3

### FACTS

¶ 4

Plaintiff owns and operates Joliet Regional Airport and leases airport space to tenants. Defendant Bryan Ward is the owner and operator of South Suburban Aviation. Defendant leased a hangar and grass tie-down space from Plaintiff at Joliet Regional Airport. He kept two airplanes on the leased property – one in the hangar and one in the tie-down area.

¶ 5

In September 2013, Plaintiff filed a forcible entry and detainer complaint against Defendant alleging non-payment of rent. On October 11, 2013, a bench trial was held. Following the trial, the court entered an order granting Plaintiff possession of the leased premises effective May 1, 2014. The court also ordered Defendant to make certain payments on or before the last day of each month beginning on October 31, 2013, as past due and holdover rent. The court's order further provided: "In the event Defendant fails to comply with the terms herein, Plaintiff shall be entitled to immediate possession of the Premises."

¶ 6

On November 12, 2014, Plaintiff filed a Motion to Reinstate the Judgment, asserting that Defendant failed to make payments pursuant to the trial court's October 11, 2013 order and seeking immediate possession of the leased premises. Plaintiff also sought an order allowing it to dispose of the two aircrafts Defendant left on the leased property. Following a hearing on November 18, 2014, which Defendant did not attend, the trial court granted Plaintiff's motion, thereby reinstating its October 11, 2013 order and granting Plaintiff immediate possession of the leased property. The trial court also entered a monetary judgment in favor of Plaintiff and

against Defendant for \$12,875, and granted Plaintiff “leave to dispose of aircrafts located on premises.”

¶ 7 On November 24, 2014, Defendant filed a “Motion to Stay Ex Parte Order,” requesting that the court stay its November 18, 2014 order pending an evidentiary hearing or, alternatively, vacate the November 18, 2014 order. On December 2, 2014, Defendant filed an “Amended Motion to Vacate November 18, 2014 Order,” arguing that the court did not have jurisdiction to reinstate its October 11, 2013 order because Plaintiff’s motion to reinstate was filed more than 30 days after the order was entered. The trial court granted Defendant’s motion to vacate and vacated the November 18, 2014 order.

¶ 8 Immediately thereafter, Plaintiff filed a new motion to reinstate the court’s October 11, 2013 judgment, seeking possession of the leased premises, permission to dispose of the two aircrafts on the leased premises, and a monetary judgment against Defendant in the amount of \$3,360. On December 10, 2014, the trial court granted Plaintiff’s motion to reinstate, providing Plaintiff with immediate possession of the leased property and setting a hearing date for a “determination of rent due.”

¶ 9 Defendant filed a motion to reconsider the trial court’s December 10, 2014 order, seeking permission to remove his airplanes from the leased property immediately. Plaintiff filed a motion to strike or, alternatively, to deny Defendant’s motion to reconsider. The trial court entered an order denying Defendant’s motion to reconsider finding “no equitable reason why the court should extend the date of possession.” Thereafter, Andrew Ward filed a motion to dismiss Plaintiff’s forcible entry and detainer complaint, asserting that Plaintiff’s complaint failed to name him, a necessary party, since he was the owner of the airplanes located on the leased property.

¶ 10 On January 6, 2015, the trial court held a hearing. At the hearing, Plaintiff informed the court that Defendant had moved both airplanes off of the leased property. Defendant moved one of the airplanes off of Plaintiff's property entirely but moved the other airplane to another location within the airport on property owned by Plaintiff. Following the hearing, the court entered judgment in favor of Plaintiff and against Defendant for \$3,360 for past due rent. The court stayed Plaintiff's possession of the property until January 16, 2015, as to "plane registration no. 98947," the plane still located on Plaintiff's property. The court's order allowed Plaintiff to "remove plane no. 98947" and any other property after January 16, 2015.

¶ 11 ANALYSIS

¶ 12 Defendant argues that the trial court lacked authority to grant Plaintiff possession of the airplane still located on Plaintiff's property since it was no longer on the leased property. He alternatively argues that Plaintiff's pleadings fail to adequately describe the location of the airplane.

¶ 13 The purpose of the Forcible Entry and Detainer Act (Act) (735 ILCS 5/9-101 *et seq.* 2012)) is to provide a speedy remedy to allow a person who is entitled to the possession of certain property to be restored to possession. *Wells Fargo Bank, N.A. v. Watson*, 2012 IL App (3d) 110930, ¶ 14. "It is 'a limited proceeding, focusing on the central issue of possession.' " *Campana Redevelopment, LLC v. Ashland Group, LLC*, 2013 IL App (2d) 120988, ¶ 13 (quoting *American National Bank v. Powell*, 293 Ill. App. 3d 1033, 1044 (1997)).

¶ 14 A forcible entry and detainer action is a special statutory proceeding that is in derogation of common law, and recovery is confined to cases clearly within its provisions. *Central Terrace Co-Operative v. Martin*, 211 Ill. App. 3d 130, 132 (1991); *Nance v. Bell*, 210 Ill. App. 3d 97, 99 (1991). However, if a case falls within the parameters of the Act, the Act should be liberally

construed to effectuate the remedy it provides. *Martin*, 211 Ill. App. 3d at 132; *Nance*, 210 Ill. App. 3d at 100.

¶ 15 Here, Plaintiff filed its action to recover possession of real property it owned and had leased to Defendant for which Defendant failed to pay rent. This action clearly fell within the parameters of the Act. See 735 ILCS 5/9-102(a) (4), 9-209 (West 2010). As such, the trial court was authorized to grant any and all relief necessary to restore Plaintiff to possession of its property. See *Martin*, 211 Ill. App. 3d at 132; *Nance*, 210 Ill. App. 3d at 100.

¶ 16 In this case, it was necessary for the trial court to grant Plaintiff possession of not only the real property that Plaintiff leased but also an airplane that Defendant wrongfully moved from the leased property to another location on Plaintiff's property. Not granting such relief to Plaintiff would reward Defendant for his wrongful act and deprive Plaintiff of possession of the portion of its property where Defendant left his airplane. The relief provided by the court was necessary to accomplish the Act's purpose and was, therefore, proper.

¶ 17 Defendant, however, contends that the court's order was unenforceable because Plaintiff's pleadings failed to specifically identify the location of the airplane. We reject this contention. The trial court's order properly identified the airplane by registration number. A description of the location of the airplane may have been useless because Defendant could have kept moving his plane from place to place on Plaintiff's property, as he had already done once to avoid Plaintiff from taking possession of it. The only way to provide Plaintiff the relief to which it was entitled was to grant Plaintiff possession of the airplane by specifically identifying the airplane at issue, rather than its location. To hold otherwise would defeat the Act's purpose and intent to quickly restore the possession of property to the person entitled it. See *Watson*, 2012 IL App (3d) 110930, ¶ 14.

¶ 18 CONCLUSION

¶ 19 The judgment of the circuit court of Will County is affirmed.

¶ 20 Affirmed.

¶ 21 PRESIDING JUSTICE McDADE, dissenting.

¶ 22 The majority has affirmed the decision of the circuit court of Will County awarding the Joliet Park District possession, in a forcible entry and detainer action, of an airplane no longer located on the premises that were the subject of the action.

¶ 23 The facts, which are fully described by the majority, are unusual. The court, after finding the Plaintiff was entitled to possession of the leased premises, ejection of the tenant and removal of his two airplanes, gave the Defendant six months to find a new location for the aircraft. At the end of that time, both planes had been removed from the leased hangar and outdoor tie-down area. The forcible entry and detainer action had successfully achieved the return of possession of the *vacant* leased premises to the landlord.

¶ 24 There is, however, a new and different problem with regard to one of the planes. While it was, in fact, removed from the leased area, it was moved to a different area of the Plaintiff's regional airport that the Defendant claims is a "public parking" lot for aircraft. Faced with this situation, the trial court, as part of the forcible entry and detainer action, awarded the park district possession of the plane with the right to sell it. In so doing, it stretched the contours of the cause of the action beyond its statutory parameters.

¶ 25 As the majority has noted, this is a statutory proceeding in derogation of the common law and must, therefore, be strictly construed. See ¶14 *supra*. The particular issue before us does not fall within the parameters of the Act (See 735 ILCS 5/9-102(a) (4), 9-209 (West 2010)). Neither

the Defendant nor his property remains on the leased premises. The forcible entry and detainer has been successfully achieved.

¶ 26 The current problem is that the Defendant's second plane is now trespassing on other premises belonging to the Plaintiff. A trespass action resulting in an order for removal of the airplane, payment of reasonable usage fees, and an injunction barring the Defendant from placing any aircraft on the Plaintiff's premises in the future without specific authorization, could make the Plaintiff whole.

¶ 27 Plaintiff can be made whole without twisting the forcible entry and detainer statute beyond its plain provisions.