



S&C Financial Group, LLC v. Darren Gaston

2019 | Cited 0 times | Indiana Court of Appeals | May 8, 2019

MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

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I N T H E C O U R T O F A P P E A L S O F I N D I A N A

S&C Financial Group, LLC, Appellant-Plaintiff,

v.

Darren Gaston, Appellee-Defendant May 8, 2019 Court of Appeals Case No. 18A-PL-1787 Appeal from the Putnam Superior Court The Honorable Charles D. Bridges, Judge Trial Court Cause No. 67D01-1803-PL-11

Vaidik, Chief Judge.

Case Summary

[1] S&C Financial Group, LLC, entered into an oral agreement with Darren

Gaston to sell him a house. When S&C filed an eviction action against Gaston in Putnam County small-claims court, the parties entered into a settlement

agreement, and S&C dismissed the case. S&C later sued Gaston for possession

of the real estate in Putnam Superior Court. The trial court found that Gaston,

not S&C, was the rightful owner and ordered S&C to give Gaston a deed to the

property and pay \$1,275 of his . S&C now appeals. We affirm as



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Facts and Procedural History

[2] S&C is an Indianapolis company that acquires tax-sale properties, fixes them, and then rents or sells them. Tr. p. 6. Scott Wynkoop is the owner of S&C.

Gaston worked as a subcontractor for S&C. S&C purchased a house on Apple Street in Greencastle at a tax sale in October 2014. Id. at 6, 31.

Thereafter, S&C and Gaston entered into an oral agreement whereby S&C would sell the Apple Street property to Gaston for \$13,000. In October 2015, Gaston paid S&C \$2,000 toward the purchase price and moved in and began making extensive repairs to the house, including adding electrical and plumbing. Gaston made additional payments toward the purchase price in the form of S&C deducting varying amounts from his paychecks. See Ex. E (deductions in August and September 2016).

[3] On June 19, 2017, Wynkoop texted Gaston that his last payment was April 17 added that

county. It was never supposed to Id. On June 26, Gaston paid S&C \$305, leaving a balance of \$2,000. Tr. p. 43.

[4] In July, Gaston developed an infection in his brain, was hospitalized, and underwent brain surgery. He could not work for a year and thus S&C was no longer able to deduct money from his paychecks.

[5] , S&C filed a Notice of Claim for

Eviction against Gaston in Putnam County small-claims court. See 67D01-



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1708-SC-388. An

eviction hearing was set for September 21. When Wynkoop and Gaston appeared at court for the hearing, they reached an oral agreement off the record to settle the case, under which Gaston would pay S&C \$3,855 and S&C would give Gaston a deed to the Apple Street property. The court reporter was present during and told them that if they reached an agreement, a dismissal would have to be filed. Wynkoop then signed an order-of-dismissal form indicating that the parties have reached an agreement. The judge signed the order that same day. See Order of Dismissal, 67D01-1708-SC-388 (Sept. 21, 2017).

[6] As soon as he left the courthouse in Putnam County, Gaston went to the bank to get a \$3,855 ,

gave the check to an employee, right after Gaston left and was told by the employee that Gaston had made the payment but that he was still planning on pursuing a lien that he had recorded on an unrelated property.

Wynkoop immediately texted Gaston as follows: Come back and pick up your check. I am not going to accept the payment until everything is settled

texted back to which Wynkoop responded: deposit the check and I am not going to prepare the deed until that is resolved.

Id. S&C then returned the to Gaston via certified mail.

[7] In January 2018, S&C filed a new Notice of Claim for Eviction against Gaston



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in Putnam County small-claims court. See 67D01-1801-SC-1. S&C alleged as filed a

motion to dismiss alleging that he was not leasing the Apple Street property but rather purchasing it on contract and that

Id. at 16. The next day, the small-claims court dismissed the case. S&C filed a motion to reconsider, which the court denied.

[8] In March, S&C filed a Complaint for Possession of Real Estate and for Damages against Gaston in Putnam Superior Court. See 67D01-1803-PL-11.

In the complaint, S&C acknowledged that Wynkoop and Gaston had reached an agreement at the courthouse whereby Gaston would pay S&C \$3,855 and

S&C would give him a deed to the Apple Street property. Vol. II p. 32. However, S&C claimed that the agreement also required Gaston to release the m lien on the unrelated property, which he did not do

and therefore breached the agreement. Accordingly, S&C asked for immediate possession of the real estate and damages. he court set a hearing for possession only.

[9] Wynkoop, the court reporter, and Gaston testified at the hearing. First, Wynkoop testified that the oral agreement he made with Gaston for the sale of the Apple Street property was that if he paid me \$13,000 in 12 months, then I Wynkoop also testified that the agreement he made with Gaston at the courthouse to settle the case was that if Gaston paid \$3,855 to S&C and released on the unrelated



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property, then S&C would give him a deed to the Apple Street property. Id. at

15. When Wynkoop was asked on cross examination if he and Gaston had

Id.

[10] Next, the court reporter testified that the parties reached an agreement that

Gaston had to pay \$3,855 to S&C and that S&C dismissed the case that same

day. She also testified that the parties did not discuss during their negotiations. Id. at 26-27.

[11] Finally, Gaston testified that the oral agreement he made with Wynkoop for the

sale of the Apple Street property was that he had to pay S&C \$13,000 and that

there was no hard-and-fast deadline for when the \$13,000 had to be paid.

Gaston also testified that the settlement agreement he reached with Wynkoop at the courthouse was that he had to pay \$3,855 in order to get a deed to the

ir

agreement Id. at 35.

[12] Thereafter, the trial court issued an order finding that the parties entered into a

settlement agreement in September 2017, that Gaston fulfilled his duties

pursuant to the settlement agreement when he presented the for

\$3,855, and that S&C breached the settlement agreement when it refused to

accept the payment. The court therefore The court also

ordered S&C to pay \$1,275 attorney fees.

[13] S&C now appeals.

Discussion and Decision



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[14] S&C r on several grounds. In ruling in favor of

Gaston, the trial court made several findings. Pursuant to Indiana Trial Rule

52(A), the reviewing court will not set aside the findings or judgment unless

clearly erroneous, and due regard shall be given to the opportunity of

the trial court to judge the credibility of the witnesses. *Steele-Giri v. Steele*, 51

N.E.3d 119, 123 (Ind. 2016). [15] First, S&C contends

as the scheduled hearing was limited to the issue of possession only, with any

p. 13. Specifically, S&C argues that bifurcated

Id. at 23. That is, if the court found that S&C was not entitled to

immediate possession after the first hearing, would have been for the Court to conduct a hearing on remaining issues,

including the possibility of S&C obtaining possession, Id. at 24.

However, were necessarily resolved when the

trial court determined that Gaston was entitled to possession and ownership of

the Apple Street property. settlement agreement, which provided for Gaston to receive a deed to the Apple

Street property upon the payment of \$3,855 to S&C. The trial court did not err

in disposing of the entire case after the first hearing.

[16] Second, S&C contends that the trial court erred in concluding that the parties

entered into an enforceable settlement agreement in September 2017 because

the minds. Id. at 20. A settlement

is an agreement to terminate or forestall all or part of a lawsuit. *Harding v. State*,



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603 N.E.2d 176, 179 (Ind. Ct. App. 1992), trans. denied; see also Vance v. Lozano,

981 N.E.2d 554, 558 (Ind. Ct. App. 2012) contract between two or more people to amicably settle or adjust their

Jur.

2d Compromise & Settlement § 1 (2011)). Indiana strongly favors settlement agreements. Georgos v. Jackson, 790 N.E.2d 448, 453 (Ind. 2003), .

Settlement agreements are governed by the same principles of contract law as other agreements and require an offer, acceptance, consideration, and meeting of the minds. Jonas v. State Farm Life Ins. Co., 52 N.E.3d 861, 868 (Ind. Ct. App. 2016), trans. denied. Generally, a settlement agreement is not required to be in writing. 1 Id. The breach of a settlement agreement by one of the parties is actionable, and a trial court has the power to order specific performance.

Harding, 603 N.E.2d at 179.

[17] Here, it is undisputed that the parties reached an oral agreement at the courthouse to settle the case and that S&C dismissed the case that same day.

That is, the parties agreed that Gaston would pay S&C \$3,855 and S&C would give Gaston a deed to the Apple Street property. However, the parties dispute whether the agreement contained an additional term. Wynkoop testified that the agreement also required Gaston to release unrelated property. Tr. p. 15; see also but th the understanding [Gaston] would). Gaston and the court reporter, however, agreement. The



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1 S&C notes that when a contract is required by law to be in writing, it can only be modified by a written instrument. See *Huber v. Hamilton*, 33 N.E.3d 1116 (Ind. Ct. App. 2015), . Here, however, the parties did not modify their original oral agreement regarding the sale of the Apple Street property. Rather, they entered into an agreement to settle the pending small-claims case. S&C does not cite any authority for the proposition that settlement agreements regarding the sale of real estate must be in writing. trial court heard both versions and believed Gaston and the cou . See 15B Am.

Jur. 2d Compromise & Settlement § 7 (Feb. 2019 update) (A party s mental reservations and unexpressed intentions will not supersede outward expressions of assent or override objective and unequivocal manifestations of assent to terms of the settlement agreement. This evidence supports a conclusion that there was a meeting of the minds.

[18] Third, S&C contends that the pple

Street property is not enforceable because it was not in writing, as required by the Statute of Frauds. However, S&C can no longer challenge this agreement

because it entered into a subsequent agreement with Gaston dispute regarding the sale of the Apple Street property. A settlement agreement

supersedes and extinguishes all preexisting claims the parties intended to settle

and is effective except as to those claims specifically reserved. 15B Am. Jur. 2d

Compromise & Settlement, § 24 (Feb. 2019 update). Accordingly, if S&C believed

oral agreement for the sale of the Apple Street property was not

settlement agreement with Gaston. Having done so, it cannot now go back and

reement for the sale of the Apple Street

property.

[19] Finally, S&C contends that the trial court erred in ordering it to pay \$1,275 in



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because Gaston de no claim for attorney fees whatsoever, either in his pleadings or at the hearing. . Indiana follows the American Rule, which requires each party to a lawsuit to pay its own

attorney fees absent an agreement between the parties, statutory authority, or

an equitable exception. Loparex, LLC v. MPI Release Techs., LLC, 964 N.E.2d

806, 815-16 (Ind. 2012). Gaston argues that we should affirm the

award 17 (citing Ind. Code § 34-52-1-1). However, Gaston did not bad

faith below, nor did he request an award of , nor did

he present any evidence as to ees he had incurred.

We therefore reverse to Gaston.

[20] Affirmed in part, reversed in part.

Mathias, J., and Crone, J., concur.

