

**IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
LAKE COUNTY, OHIO**

PATRICIA HORVATH,	:	O P I N I O N
Plaintiff-Appellant,	:	
- VS -	:	CASE NO. 2017-L-168
JO ANN DAVIS,	:	
Defendant-Appellee.	:	

Civil Appeal from the Lake County Court of Common Pleas, Case No. 2017 CV 000507.

Judgment: Affirmed.

Thomas J. Sacerich, 8302 Yellowbrick Road, Mentor, OH 44060 (For Plaintiff-Appellant).

James V. Loiacono, James V. Loiacono, LLC, 41 East Erie Street, Painesville, OH 44077 (For Defendant-Appellee).

COLLEEN MARY O'TOOLE, J.

{¶1} Patricia Horvath appeals from the judgment entry of the Lake County Court of Common Pleas, ruling in favor of her mother, Jo Ann Davis, in an action for fraud. Ms. Horvath contends Mrs. Davis forged her signature on a quitclaim deed for her house, located at 7223 Agree Road, Mentor, Ohio, then evicted her. Finding no reversible error, we affirm.

{¶2} In 2000 or 2001, Mrs. Davis purchased the home for Ms. Horvath, who was recently out of drug rehabilitation. Mrs. Davis wanted Ms. Horvath to stay sober, and make mortgage payments and/or rent. Shortly thereafter, Ms. Horvath quitclaimed the house back to Mrs. Davis, to protect it during her divorce. Deciding that Ms. Horvath was remaining sober, Mrs. Davis quitclaimed the house back to her eventually.

{¶3} It appears from the transcript of trial, that Mrs. Davis made nearly all of the mortgage payments. She also loaned Ms. Horvath money for a car, and to get braces for one of her children.

{¶4} Eventually, Mrs. Davis decided that Ms. Horvath had slipped back into drug use. At trial, Mrs. Davis testified she required Ms. Horvath to quitclaim the house back to her. The deed is dated September 14, 2012, and was notarized by Constance Helminak, an old friend of Mrs. Davis. Both Mrs. Davis and Ms. Helminak testified they observed Ms. Horvath signing the deed.

{¶5} Ms. Horvath denied vigorously at trial that she had signed the deed, but rather, that her mother forged the signature. Significantly, Vicki Willard, a forensic documents examiner with 36 years experience, testified on Ms. Horvath's behalf. Ms. Willard testified there was a "very high probability" the signature on the deed was not Ms. Horvath's.

{¶6} Ms. Horvath was evicted from the house in early 2017.

{¶7} Ms. Horvath filed her complaint sounding in fraud March 31, 2017. Mrs. Davis answered and counterclaimed April 28, 2017. Discovery ensued. The matter came on for bench trial November 3, 2017. November 8, 2017, the trial court filed its judgment

entry. It found Mrs. Davis and her witnesses more credible than those of Ms. Horvath, and found for Mrs. Davis on the fraud claims. However, it further found Mrs. Davis had not introduced sufficient evidence to support her breach of contract claims, thus finding in Ms. Horvath's favor on the counterclaim.

{¶8} Ms. Horvath timely noticed this appeal, assigning a single error: "The trial court erred in finding for Defendant on Plaintiff's claim in her complaint that Plaintiff's signature was forged to the quit claim deed executed September 14, 2012 and filed for record on November 25, 2014."¹

{¶9} On appeal, Ms. Horvath argues the trial court's judgment is against the manifest weight of the evidence, since it does not give sufficient weight to the expert testimony of Ms. Willard that the signature on the deed was not Ms. Horvath's.

{¶10} "A reviewing court, in addressing a civil manifest weight challenge, must determine whether the finder of fact, in resolving conflicts in the evidence, clearly lost his or her way and created such a manifest miscarriage of justice that the judgment must be reversed and a new trial ordered. *See Hunter v. Green*, Coshocton App. No. 12–CA–2, 2012-Ohio-5801, 2012 WL 6094172, ¶25." *Canter v. Wolfe*, 5th Dist. Fairfield No. 15 CA 64, 2016-Ohio-5300, ¶19.

{¶11} Based on the record, we cannot find the trial court clearly lost its way. Admittedly, the testimony of Ms. Willard is powerfully in Ms. Horvath's favor. However, the trial court also had before it the testimony of Mrs. Davis and Ms. Helminak that they observed Ms. Horvath signing the deed. The trial court had the opportunity to observe all of the witnesses.

1. Mrs. Davis has not appealed.

{¶12} The assignment of error lacks merit.

{¶13} The judgment of the Lake County Court of Common Pleas is affirmed.

DIANE V. GRENDELL, J.,

CYNTHIA WESTCOTT RICE, J.,

concur.