

[Cite as *State ex rel. Olmstead Falls v. Bowman*, 2018-Ohio-4862.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
Nos. 106615 and 107150

STATE OF OHIO, EX REL., CITY OF
OLMSTED FALLS

RELATOR-APPELLEE

vs.

TED BOWMAN, ET AL.

RESPONDENTS-APPELLANTS

JUDGMENT:
AFFIRMED

Civil Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CV-14-835343

BEFORE: Stewart, J., Kilbane P.J., and McCormack, J.

RELEASED AND JOURNALIZED: December 6, 2018

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MELODY J. STEWART, J.:

{¶1} Respondent-appellant Ted Bowman challenges the judgment against him in a nuisance action. This court previously affirmed that judgment. *State ex rel. Olmsted Falls v. Bowman*, 8th Dist. Cuyahoga No. 104154, 2016-Ohio-5851. However, in this consolidated appeal, Bowman argues that the judgment is void because the trial court did not have jurisdiction over the underlying case.

{¶2} The relator, city Olmsted Falls, initiated the action against Bowman pursuant to R.C. 3767.01 et seq. in the Cuyahoga County Court of Common Pleas, alleging violations of various statutes and ordinances. The violations were based on Bowman's use of his Columbia Road property in Olmsted Falls as an illegal dumping and storage ground. The city complained that Bowman's use created a potential health and safety threat to the community.

{¶3} As relevant to this appeal, the city alleged in its initial petition that “Ted Bowman owns the property located at 9058 Columbia Road in Olmsted Falls, Ohio.” Bowman denied that allegation in his answer. Bowman’s property was actually a subdivided portion of the larger property previously identified by that address. The city subsequently amended its petition. Its amended verified petition reflected that “Ted Bowman owns the property located in the 9000 block of Columbia Road and further described as Permanent Parcel # 291-10-007 in Olmsted Falls, Ohio.” We note that despite the city’s initially listing Bowman’s address as “9058 Columbia Road,” and Bowman’s unequivocal statement that he has never owned the real property located at that address, there is no indication that there was ever any question regarding which property the petition referred to or who owned it. To the contrary, Bowman has affirmatively shown he owns the property at issue in the case: he signed an agreed judgment entry, that although it listed the wrong address, nevertheless also contained a specific multipage itemization of Bowman’s offending property, and various dates by which he agreed to remove items from it.

{¶4} On appeal, Bowman argues that the incorrect address deprived the trial court of subject matter jurisdiction over the case. As a result, he claims, the court had no authority to render judgment.

{¶5} Subject matter jurisdiction refers to a court’s power to hear and decide a case on its merits. *Morrison v. Steiner*, 32 Ohio St.2d 86, 87, 290 N.E.2d 841 (1972); *see also Black’s Law Dictionary* 983 (10th Ed.2014) (It is “[j]urisdiction over the nature of the case and the type of relief sought; the extent to which a court can rule on the conduct of persons or the status of things.”). Any decision by a court lacking subject matter jurisdiction is void ab initio. *Bank of Am., N.A. v. Kuchta*, 141 Ohio St.3d 75, 2014-Ohio-4275, 21 N.E.3d 1040, ¶ 17.

{¶6} Fundamentally, courts of common pleas are vested with subject matter jurisdiction embracing “all matters at law and in equity that are not denied to it.” *Saxton v. Seiberling*, 48 Ohio St. 554, 558-559, 29 N.E. 179 (1891). The Ohio Constitution specifies that the courts of common pleas “have such original jurisdiction over all justiciable matters * * * as may be provided by law.” Article IV, Section 4(B), Ohio Constitution. As relevant to this case, jurisdiction has been “provided by law” in R.C. 3767.04(A), which in relevant part states that nuisance actions “shall be commenced in the court of common pleas of the county in which the nuisance is located.” Because Olmsted Falls is located in Cuyahoga County, the city properly filed this action in the Cuyahoga County Court of Common Pleas.

{¶7} Bowman argues that the initially imprecise address violated pleading requirements in Civ.R. 8 and 9. He dismisses the city’s amended petition that corrected the error and listed his correct address, as “irrelevant,” because of the previously mentioned agreed judgment entry that referred to the initial petition. Because the address in the initial petition was wrong, Bowman claims, “any action” taken by the trial court was void.

{¶8} Civ.R. 8(A) provides that a complaint only contain a “short and plain statement of the claim showing that the party is entitled to relief,” and “a demand for judgment * * *.” The city’s pleadings complied with this requirement, imprecise address notwithstanding. *See Cincinnati v. Beretta U.S.A. Corp.*, 95 Ohio St.3d 416, 2002-Ohio-2480, 768 N.E.2d 1136, ¶ 29 (“Ohio law does not ordinarily require a plaintiff to plead operative facts with particularity.”); *see also Peterson v. Teodosio*, 34 Ohio St.2d 161, 175, 297 N.E.2d 113 (1973) (“The spirit of the Civil Rules is the resolution of cases upon the merits, not upon pleading deficiencies.”).

{¶9} However, even assuming that the city’s pleadings were infirm, the alleged infirmity would not have impacted the trial court’s subject matter jurisdiction over the case. It is a basic principle of law that defective pleadings do not affect a court’s subject matter jurisdiction. *Inc. Consultants v. Todd*, 175 Ohio St. 425, 427, 195 N.E.2d 788 (1964). “[Subject matter jurisdiction] is determined as a matter of law and, once conferred, it remains.” *Pratts v. Hurley*, 102 Ohio St.3d 81, 2004-Ohio-1980, 806 N.E.2d 992, ¶ 34. Subject matter jurisdiction is not a mechanism for a party to relitigate settled issues or evade judgment merely because he disagrees with the outcome. The trial court had subject matter jurisdiction over the case irrespective of the initially incorrect address. We overrule Bowman’s assignment of error.

{¶10} Judgment affirmed.

It is ordered that appellee recover of appellants costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

MELODY J. STEWART, JUDGE

MARY EILEEN KILBANE, P.J., and
TIM McCORMACK, J., CONCUR