

COURT OF APPEALS  
KNOX COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

CARLES BROWN

Plaintiff-Appellee

-VS-

PRISCILLA C. ARNHOLT,  
EXECUTOR, ET AL.

## Defendant-Appellant

**JUDGES:**

Hon. Sheila G. Farmer, P.J.  
Hon. John W. Wise, J.  
Hon. Patricia A. Delaney, J.

Case No. 16CA02

## OPINION

CHARACTER OF PROCEEDING:

Appeal from the Knox County Court of  
Common Pleas, Case No. 14QT11-  
0383

**JUDGMENT:**

# REVERSED AND REMANDED

DATE OF JUDGMENT ENTRY:

August 24, 2016

APPEARANCES:

For Plaintiff-Appellee:

NOEL B. ALDEN  
121 East High Street  
Mount Vernon, OH 43050

For Defendant-Appellant:

THOMAS R. GILMAN  
133 South Market South  
Loudonville, OH 44842

*Delaney, J.*

{¶1} Defendant-Appellant Priscilla C. Arnholt, Executor of the Estate of Etta Brown, deceased, appeals the December 15, 2015 judgment of the Knox County Court of Common Pleas.

{¶2} Plaintiff-Appellee is Carles Brown.

### **FACTS AND PROCEDURAL HISTORY**

{¶3} Etta Brown is the mother of Carles Brown. In 1954, Etta Brown and her late husband purchased the real estate that is the subject of this case. Between 1954 and 1959, Etta Brown's husband was injured in a motorcycle accident. As result of the accident, he was unable to operate the farm, which had been established on the property.

{¶4} In 1959, when Carles Brown was 15 years old, Etta Brown and her husband made a promise to him that if he operated the farm for them, they would grant him the right to live on the land for life. Carles Brown dropped out of high school at the end of his freshman year to run the farm for his parents, which he continued to do so for the next 44 years.

{¶5} Carles Brown was injured while performing his farm duties and was in declining health due to his injuries and having been stricken with cancer. Due to the changes in his health, Carles Brown was only able to perform some his duties on the farm, not limited to pasturing and feeding livestock and repairing and maintaining the equipment.

{¶6} Between 1959 and 2004, Carles Brown was presented with at least three opportunities to take employment outside the farm. On each occasion, Carles was

persuaded to stay with the promise of the continued right to live on the farm during his lifetime and to inherit the same upon the death of his parents.

{¶7} On March 31, 2004, Etta Brown served Carles Brown with a three-day Notice to Leave the Premises for his failure to pay rent by failing to perform his duties on the farm. Etta Brown filed a Complaint in Forcible Entry and Detainer in the Mount Vernon Municipal Court, seeking a writ of restitution and damages. Carles Brown filed an answer.

{¶8} The municipal court held a hearing on Etta Brown's complaint to determine the right to possession of the subject property. On June 28, 2004, the municipal court filed its Findings of Fact and Conclusions of Law along with its judgment entry. The trial court found that a binding and enforceable contract was entered into by Etta Brown and Carles Brown. The municipal court stated in its judgment entry:

\* \* \* [Carles Brown] has continuously and substantially performed his duties under the contract in consideration of the defendant's right to live on, possess and quietly enjoy the 200 acre farm in Jefferson Township \* \* \* for and during the term of [Carles Brown's] natural life and upon the death of the [Etta Brown], [Carles Brown] shall become vested with all of the right, title and interest of [Etta Brown] in and to said real estate.

IT IS THEREFOR, ORDERED ADJUDGED AND DECREED that the defendant Carles Brown shall, for and during the natural life of said defendant, enjoy the full, complete and absolute right to possession and quiet enjoyment of said real estate, \* \* \*

(Judgment Entry, June 28, 2004).

{¶9} Etta Brown appealed the June 28, 2004 judgment entry to this Court in *Brown v. Brown*, 5th Dist. Knox No. 04CA000018, 2005-Ohio-1838. She argued in her appeal that the municipal court erred when it went beyond the issues presented in a forcible entry and detainer action to find that Carles Brown had a life estate in the property. We disagreed and affirmed the decision of the municipal court. We found that in order to resolve the forcible entry and detainer action which determines the right to possession, the municipal court had equitable jurisdiction to determine whether Carles Brown had the right to a life estate in the property. *Id.* at ¶ 24. If the municipal court found Carles Brown had a life estate in the property, such a finding would end the eviction action. *Id.* We went on to hold there was competent and credible evidence to support the trial court's finding that Etta Brown granted Carles Brown a life estate in the property. *Id.* at ¶ 37, 38.

{¶10} Etta Brown did not appeal our decision to the Ohio Supreme Court.

{¶11} Etta Brown passed away on April 1, 2014.

{¶12} On November 1, 2014, Carles Brown filed a quiet title action against the Estate of Etta Brown ("the Estate") and other interested parties in the Knox County Court of Common Pleas. He argued that based on the June 28, 2004 judgment entry of the Mount Vernon Municipal Court, he had fee simple ownership of the property upon the death of Etta Brown.

{¶13} Carles Brown filed a motion for summary judgment on September 25, 2015. The Estate of Etta Brown responded and Carles Brown replied.

{¶14} On December 10, 2015, the trial court granted summary judgment in favor of Carles Brown.

{¶15} It is from this judgment the Estate now appeals.

### **ASSIGNMENT OF ERROR**

{¶16} The Estate raises one Assignment of Error:

{¶17} “THE TRIAL COURT ERRED IN GRANTING PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT.”

### **ANALYSIS**

#### **Standard of Review**

{¶18} The Estate argues the trial court erred in granting summary judgment in favor of Carles Brown. We refer to Civ.R. 56(C) in reviewing a motion for summary judgment which provides, in pertinent part:

Summary judgment shall be rendered forthwith if the pleading, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence in the pending case and written stipulations of fact, if any, timely filed in the action, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.\* \*

\* A summary judgment shall not be rendered unless it appears from such evidence or stipulation and only from the evidence or stipulation, that reasonable minds can come to but one conclusion and that conclusion is adverse to the party against whom the motion for summary judgment is made, such party being entitled to have the evidence or stipulation construed most strongly in the party's favor.

{¶19} The moving party bears the initial responsibility of informing the trial court of the basis for the motion, and identifying those portions of the record before the trial court, which demonstrate the absence of a genuine issue of fact on a material element of

the nonmoving party's claim. *Dresher v. Burt*, 75 Ohio St.3d 280, 292, 662 N.E.2d 264 (1996). The nonmoving party then has a reciprocal burden of specificity and cannot rest on the allegations or denials in the pleadings, but must set forth “specific facts” by the means listed in Civ.R. 56(C) showing that a “triable issue of fact” exists. *Mitseff v. Wheeler*, 38 Ohio St.3d 112, 115, 526 N.E.2d 798, 801 (1988).

{¶20} Pursuant to the above rule, a trial court may not enter summary judgment if it appears a material fact is genuinely disputed. *Vahila v. Hall*, 77 Ohio St.3d 421, 429, 674 N.E.2d 1164 (1997), citing *Dresher v. Burt*, 75 Ohio St.3d 280, 662 N.E.2d 264 (1996).

#### **Genuine Issues of Material Fact Remain as to Legal Title to the Property**

{¶21} In his motion for summary judgment, Carles Brown argued he was entitled to legal title to the property based on the June 28, 2004 judgment entry of the Mount Vernon Municipal Court. The trial court agreed and granted summary judgment in favor of Carles Brown. The Estate argues on appeal the trial court erred in its judgment. Upon our de novo review, we agree the trial court erred.

{¶22} The June 28, 2004 judgment entry of the Mount Vernon Municipal Court stated in pertinent part:

\* \* \* [Carles Brown] has continuously and substantially performed his duties under the contract in consideration of the defendant's right to live on, possess and quietly enjoy the 200 acre farm in Jefferson Township \* \*  
\* for and during the term of [Carles Brown's] natural life and upon the death of the [Etta Brown], [Carles Brown] shall become vested with all of the right, title and interest of [Etta Brown] in and to said real estate.

IT IS THEREFOR, ORDERED ADJUDGED AND DECREED that the defendant Carles Brown shall, for and during the natural life of said defendant, enjoy the full, complete and absolute right to possession and quiet enjoyment of said real estate, \* \* \*

{¶23} Carles Brown argued in his motion for summary judgment that pursuant to the doctrine of collateral estoppel or issue preclusion, there was no genuine issue of material fact that the Mount Vernon Municipal Court granted Carles Brown legal title to the property upon the death of Etta Brown. Issue preclusion “precludes the relitigation of an issue that has been ‘actually and necessarily litigated and determined in a prior action.’” *Boehnlein-Pratt v. Ventus Corp.*, 5th Dist. Holmes No. 14CA011, 2015-Ohio-2795, ¶ 43 quoting *Krahn v. Kinney*, 43 Ohio St.3d 103, 107, 538 N.E.2d 1058 (1989). Carles Brown contended before the trial court that based on issue preclusion, the matter of the legal title to the property after the death of Etta Brown was litigated and determined by the Mount Vernon Municipal Court and affirmed upon appeal.

{¶24} “Municipal courts and their subject-matter jurisdiction are creatures of statute and they possess only those powers legislatively granted.” *Fenner v. Parkinson*, 69 Ohio App.3d 210, 215, 590 N.E.2d 339, 341, (10th Dist.1990). R.C.1901.18(A)(8) provides jurisdiction for municipal courts to hear and determine forcible entry and detainer actions. A forcible entry and detainer action deals with right of present possession of property, not legal title to property. *James v. Partin*, 12th Dist. Clermont No. CA2001-11-086, 2002-Ohio-2602, ¶ 20 citing *Haas v. Gerski*, 175 Ohio St. 327, 330, 194 N.E.2d 765 (1963). A quiet title action determines the legal title to property. Other than R.C. 1901.18(A)(8), there is no statutory authority that would confer jurisdiction upon a

municipal court to hear and determine an action to quiet title. *Wells v. Cunningham*, 56 Ohio Misc.2d 9, 11, 564 N.E.2d 758, 761, 1990 WL 253199 (M.C.1990)

{¶25} The Ohio Supreme Court addressed the issue of whether an action to quiet title in the court of common pleas prevents a municipal court from rendering judgment in a forcible entry and detainer action in *Haas v. Gerski*, 175 Ohio St. 327, 330, 194 N.E.2d 765 (1963). The *Haas* court stated

[a]n action in forcible entry and detainer is solely a possessory action. It does not determine the title to real property. The gist of the action is the right to present possession. Where, as here, possession is dependent on title, it is the present title which controls. In such an action, the court as an incident to determining the right to possession may determine in whom the present title rests, but it is only to this extent that title is determined and such determination in no way binds the Court of Common Pleas.

*Id.* The Twelfth District Court of Appeals noted, “[i]n its syllabus, the *Haas* court more succinctly stated that, “[a] Municipal Court, under Section 1901.18, Revised Code, has jurisdiction to hear and determine a forcible entry and detainer action, where, although title to the realty is drawn in question, there is no question as to *present record title*.” (Emphasis added.)” *Pemberton v. Woodford*, 12th Dist. Brown No. CA2012-01-001, 2013-Ohio-214, ¶ 13

{¶26} As we held in *Brown v. Brown*, in order to rule on the forcible entry and detainer action, it was necessary for the municipal court to determine which party had the right to present possession of the property. 2005-Ohio-1838 at ¶ 24. There was no question that Etta Brown held the record title at the time of the action. A life estate grants



ownership of a property to another person for the duration of the other person's life. A life tenant would have present possession of the property. We agreed with the municipal court's determination of the evidence that Carles Brown had a life estate in the property. *Id.* at ¶ 37-38. We therefore affirmed the municipal court's judgment to deny the forcible entry and detainer action because Carles Brown, as life tenant, had the right to a present possession of the property. The decision was based on the record title at the time of the action.

{¶27} Carles Brown properly filed a quiet title action in the court of common pleas because when Etta Brown, the fee simple property owner, passed away there was then question as to the title of the property. We find the trial court's reliance upon the June 28, 2004 judgment entry of the Mount Vernon Municipal Court to determine legal title to the property was misplaced. The municipal court has statutory authority to determine a forcible entry and detainer action as to whom is entitled to present possession of the property. The municipal court's statement as to Carles Brown's right to legal title to the property upon the death of Etta Brown exceeded the municipal court's statutory jurisdiction. As held by the *Haas* court, the municipal court's determination of the "right to possession may determine in whom the present title rests, but it is only to this extent that title is determined and such determination in no way binds the Court of Common Pleas." *Id.* at 330.

{¶28} We find genuine issues of material fact remain as to the quiet title action.

{¶29} The Estate's sole Assignment of Error is sustained.

**CONCLUSION**

{¶30} The judgment of the Knox County Court of Common Pleas is reversed and the matter is remanded for further proceedings consistent with this opinion and law.

By: Delaney, J.,

Farmer, P.J. and

Wise, J., concur.