[Cite as *Price v. Yakumithis*, 2013-Ohio-5348.]

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

Kathryn Q. Price	Court of Appeals No. L-13-1062
Appellant	Trial Court No. CI0201206026
v.	
Emmanuel T. Yakumithis	**DECISION AND JUDGMENT**
Appellee	Decided: December 6, 2013

* * * * *

Kathryn Price, pro se appellant.

* * * * *

OSOWIK, J.

{¶ 1} This is an appeal from a judgment of the Lucas County Court of Common Pleas, which granted appellee's Civ.R. 12(B)(6) motion to dismiss appellant's complaint as time-barred. For the reasons set forth below, this court affirms the judgment of the trial court.

{¶ 2} Appellant, Kathryn Price, sets forth the following assignment of error:

"1. THE TRIAL JUDGE [`S] * * * ERROR WAS GRANTING DEFENDANT[`]S MOTION TO DISMISS BASED [SIC] PLAINTIFF[`]S COMPLAINT [SIC] BEING TIME BARRED."

{¶ 3} The following undisputed facts are relevant to this appeal. On October 25, 2012, appellant filed a complaint setting forth various allegations that in 2002 and 2006 appellee conspired with an unnamed mortgage lender in the course of appraising appellant's property for financing purposes which allegedly culminated in an actionable "negligence and fraudulent inflation of the property value."

{¶ 4} It must be noted at the outset that throughout the course of this matter, first unsuccessfully pursued in federal court in 2008, and now pending before this court, all of appellant's claims against appellee and the unnamed mortgage lender lack relevant evidentiary support of any kind. In addition, as relates to the instant case, appellant's 2012 complaint, stemming from 2002 and 2006 allegations, violates the applicable four-year statute of limitations established by R.C. 2305.09.

{¶ 5} The essence of this entire case is reflected in appellant's unsupported assertion to this court that, "IT was a scheme between both the mortgage company and defendant." Appellant's arguments in support of this appeal unilaterally claim that appellee, "knowingly made a decision to inflate the value of plaintiff's home." However, no relevant evidence has been unearthed and submitted supporting this conclusion.

Lastly, appellant similarly concludes without supporting evidence that appellee, "negligently and fraudulently submitted an appraisal to the mortgage company."

{¶ 6} It is noteworthy that the complaint, the brief in support submitted by appellant on appeal, and the balance of the record of evidence contain no specific factual allegations and contain no documentation or other relevant evidence in support of the underlying allegations and premise that some form of actionable impropriety transpired in the course of appellee appraising appellant's property. On the contrary, the case never rises above unilateral conclusions of professional misconduct by appellee in his capacity as a real estate appraiser in alleged collusion with an unnamed mortgage lender.

{¶ 7} The crux of the appellant's disgruntlement stems from her genuine conviction that she was subjected to actionable misconduct by appellee and others in the course of obtaining a home loan in 2002 and in a subsequent refinancing in 2006. However, with respect to appellant's specific legal allegations of fraud, negligence, and breach of fiduciary duty on the part of appellee in his capacity as a real estate appraiser, the record is entirely devoid of any objective documentation or relevant evidence that could conceivably serve as the basis of any of the enumerated causes of action.

{¶ 8} The primary document which appears to be relied upon by appellant in support of this action is a single paragraph correspondence sent on behalf of appellant on June 12, 2007 to the Fair Housing Center by a Toledo area attorney concluding, "Kathryn Price's house was over valued by unscrupulous appraisers," and then conditionally conjecturing, "I believe Ms. Price has a good case against the mortgage company and the

appraisers." Significantly, this correspondence contained in the record shows that appellant was on notice of the circumstances underlying her claimed causes of action no later than June 12, 2007.

{¶ 9} In the sole assignment of error, appellant contends that the trial court erred in granting appellee's motion to dismiss her October 25, 2012 complaint as untimely pursuant to Civ.R. 12(B)(6). We do not concur.

{¶ 10} Appellate review of a disputed trial court judgment on a Civ.R. 12(B)(6) motion to dismiss is conducted on a de novo basis. *Perrysburg Twp. v. Rossford*, 103 Ohio St.3d 79, 2004-Ohio-4632, 814 N.E.2d 44, ¶ 5. Accordingly, in conformity with the parameters set forth in Civ.R. 12(B)(6), it must be evident from our independent review of the complaint in this matter that appellant can prove no set of facts establishing entitlement to recovery.

{¶ 11} The record reflects that the primary event giving rise to this matter occurred when appellee performed a residential real estate appraisal of appellant's residential property located in Toledo on August 18, 2002. In conjunction with this, the latest conceivable date for the commencement of the statute of limitations in this matter is when appellant claims that she was first aware of a questionable appraisal simultaneous with her prior attorney informing her of same and sending the above-referenced correspondence to the Fair Housing Center on June 12, 2007.

{¶ 12} R.C. 2305.09 establishes a four-year statute of limitations relevant to this matter. Thus, even giving the most generous commencement date to appellant, the

October 25, 2012 complaint was nevertheless filed in excess of 16 months past the June 12, 2011 expiration date of the applicable statute of limitations.

{¶ 13} Accordingly, the record unambiguously and beyond a doubt reflects that there is no set of facts which would entitle plaintiff to recovery in this matter. In the first instance, the record reflects that the complaint and record in this matter do not encompass anything beyond unsupported legal conclusions. More notably, the record clearly reflects that the matter is time-barred. We find appellant's assignment of error not well-taken.

{¶ 14} Wherefore, the judgment of the Lucas County Court of Common Pleas is hereby affirmed. Appellant is ordered to pay the cost of this appeal pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Mark L. Pietrykowski, J. _____
JUDGE

Thomas J. Osowik, J. _____
JUDGE

James D. Jensen, J. _____
CONCUR.
JUDGE