

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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R.A.S. CORPORATION,

Plaintiff/Counter-Defendant/Appellee,

v

RIVERVIEW RESTAURANT, INC., and DIMITRI  
SYROS,

Defendants/Counter-Plaintiffs/Appellants,

and

G & M RESTAURANT, INC., GEORGES MAKHOUL,  
YOUSSEF S. MAKHOUL, and YOUSSEF MOHAMAD  
GHAMLOUCH,

Defendants.

UNPUBLISHED

April 27, 1999

No. 198734

Wayne Circuit Court

LC No. 94-433421 CK

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Before: Holbrook, Jr., P.J., and O'Connell and Whitbeck, JJ.

PER CURIAM.

Defendants Riverview Restaurant, Inc., and Dimitri Syros (hereinafter defendants), appeal as of right from an order of the circuit court denying their motion for relief from judgment and motion for new trial and/or amendment of judgment. We affirm.

In February 1993, plaintiff and defendants entered into a lease agreement which was personally guaranteed by defendant Syros. Then in June 1994, defendants assigned their interest in the lease to G & M Restaurant, Inc. (hereinafter G & M). After G & M defaulted on the rent payments, plaintiff initiated summary proceedings in district court to recover possession of the premises from G & M.<sup>1</sup> Plaintiff also filed the present action seeking to recover the amount due on the lease. Defendants filed a counter-claim against plaintiff for breach of contract and conversion. Ultimately, the trial court dismissed defendants' counter-claim and entered an order of judgment in plaintiff's favor for the amount

due on the lease. Defendants' subsequent motions for relief from judgment, new trial, and/or amendment of judgment were denied.

Defendants' first argue that plaintiff failed to take reasonable steps to mitigate the damages. Specifically, defendants argue that they should have been allowed to reenter the premises and operate the restaurant. We disagree. Initially, we observe that because defendants have failed to offer any case law to support their theory that they were entitled to reenter the premises, defendants have abandoned this argument. *Palazzola v Karmazin Products Corp*, 223 Mich App 141, 156, n 7; 565 NW2d 868 (1997) (observing that an "appellant may not merely announce his position and leave it to this Court to discover and rationalize the basis for his claims"). In any event, the evidence showed that plaintiff put the property on the market for sale or lease approximately one month after G & M was evicted, and that the property was sold approximately three months later. We conclude, therefore, that defendants have failed to demonstrate that plaintiff did not mitigate the damages. *Paulitch v Detroit Edison Co*, 208 Mich App 656, 660; 528 NW2d 200 (1995).

Defendants next argue that they were entitled to notice of the summary proceedings for possession against G & M. We disagree. In plain and unambiguous language, MCL 600.5716; MSA 27A.5716 indicates that "[a] demand for possession . . . shall be in writing, addressed to the *person in possession*." (Emphasis added.) See *Coleman v Gurwin*, 443 Mich 59, 65; 503 NW2d 435 (1993) (observing "that a clear and unambiguous statute leaves no room for judicial construction or interpretation"). Because G & M was the only party entitled to possession pursuant to the assignment, *Stenke v Masland Development Co, Inc*, 152 Mich App 562, 576; 394 NW2d 418 (1986), defendants were not entitled to receive notice.

Finally, defendants argue that the trial court improperly proceeded with trial after the parties had reached a settlement. We disagree. Again, we note that defendants' failure to cite authority in support of their position means that they have abandoned the issue. *Palazzola, supra* at 156, n 7. In any event, the record shows that defendants failed to present any written evidence at trial that an actual settlement agreement existed, nor did they alert the trial court before or during trial that the alleged agreement had been reached. MCR 2.507(H).

We also reject plaintiff's argument that it should be awarded damages because this appeal is vexatious. While we do not agree with defendants' arguments, we do not conclude that the appeal was brought "without any reasonable basis for belief that there was a meritorious issue to be determined on appeal." MCR 7.216(C)(1)(a).

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Peter D. O'Connell

/s/ William C. Whitbeck

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<sup>1</sup> Plaintiff was granted the right of possession in a judgment of possession entered by the 27-2 District Court. This judgment is not at issue in this appeal.