

STATE OF MICHIGAN
COURT OF APPEALS

PARKWOOD LIMITED DIVIDEND HOUSING
ASSOCIATION,

Plaintiff-Appellant,

v

STATE HOUSING DEVELOPMENT
AUTHORITY,

Defendant-Appellee.

UNPUBLISHED
October 26, 2001

No. 218433
Wayne Circuit Court
LC No. 98-839763-CK

PARKWOOD LIMITED DIVIDEND HOUSING
ASSOCIATION,

Plaintiff-Appellant,

v

STATE HOUSING DEVELOPMENT
AUTHORITY,

Defendant-Appellee.

No. 229448
Court of Claims
LC No. 99-017226-CM

Before: Cooper, P.J., and Sawyer and Owens, JJ.

PER CURIAM.

In these consolidated cases, plaintiff appeals as of right from a Court of Claims order granting defendant's cross-motion for summary disposition and denying plaintiff's cross-motion for summary disposition. Plaintiff also appeals as of right from an earlier circuit court order granting defendant's motion for summary disposition for lack of subject matter jurisdiction. Plaintiff sought a declaratory judgment as to whether its potential prepayment of a mortgage would vest ownership of certain disputed reserve accounts with defendant. We reverse.

Plaintiff is a limited partnership owning and operating a multi-unit apartment complex. The apartment complex was financed by a mortgage between the parties in 1973. Plaintiff was organized as a limited dividend housing association pursuant to MCL 125.1493 to qualify for the mortgage from defendant. The parties also executed a "regulatory agreement" relating to the

operation of the mortgaged property. The regulatory agreement required plaintiff to deposit funds into several reserve accounts.

In 1998, plaintiff informed defendant that it intended to prepay its mortgage, and asked whether the amounts in the reserve accounts would be credited toward the amount due under the mortgage or paid to plaintiff after satisfaction of the mortgage. Defendant replied that it would retain the money in three of the reserve accounts as “surplus” pursuant to MCL 125.1493 and the agreements between the parties. Plaintiff did not prepay the mortgage.

Instead, plaintiff filed a complaint with the circuit court, seeking a declaratory judgment resolving the issue of which party would be entitled to sole possession of the accounts if plaintiff opted to prepay the mortgage. The complaint did not request monetary damages. The circuit court granted defendant’s motion for summary disposition, concluding that the Court of Claims had exclusive subject-matter jurisdiction over the dispute. Plaintiff appealed as of right from this decision in Docket No. 218433.

In addition, plaintiff filed its complaint in the Court of Claims. The parties filed cross-motions for summary disposition on the substantive issue, and the Court of Claims granted defendant’s motion and denied plaintiff’s motion. Plaintiff appealed as of right that decision in Docket No. 229448. On plaintiff’s motion, we consolidated both appeals. We are asked to decide: (i) whether the circuit court erred by concluding that it lacked subject matter jurisdiction over the dispute; (ii) whether the Court of Claims lacked subject matter jurisdiction over the dispute, thereby rendering its rulings on the substantive merits void; and (iii) if the Court of Claims had proper subject matter jurisdiction over the dispute, was its resolution of the substantive issues erroneous as a matter of law.

As noted above, the first issue to be decided is whether the circuit court erred by concluding that it lacked subject matter jurisdiction over the parties’ dispute. Plaintiff’s complaint specifically sought declaratory relief that it would be entitled to sole possession of the reserve accounts if it prepaid the mortgage. The circuit court, however, concluded that it lacked subject matter jurisdiction because plaintiff conceded that the dispute would have to be brought in the Court of Claims if the mortgage was paid off. The circuit court granted defendant’s motion for summary disposition, presumably pursuant to MCR 2116(C)(4).¹

Whether the trial court has subject-matter jurisdiction is a question of law that we review de novo. *Citizens for Common Sense in Gov’t v Attorney General*, 243 Mich App 43, 50; 620 NW2d 546 (2000). In fact, a party may raise the issue of subject matter jurisdiction at any time. *Todd v Dep’t of Corrections*, 232 Mich App 623, 627; 591 NW2d 375 (1998).

In *Silverman v Univ of Michigan Bd of Regents*, 445 Mich 209, 217; 516 NW2d 54 (1994), our Supreme Court explained the scope of the Court of Claims subject matter jurisdiction over disputes:

¹ Although the circuit court did not reference MCR 2.116(C)(4) in its ruling, that subsection applies to subject matter jurisdiction.

A complaint seeking only money damages against the state must be filed in the Court of Claims. A complaint seeking only equitable or declaratory relief must be filed in circuit court. A complaint seeking money damages from the state as well as equitable or declaratory relief against the state may only be filed in the Court of Claims, because that is the sole forum that is capable of deciding the whole case. MCL 600.6419a.

Here, plaintiff's complaint only sought a declaratory judgment regarding the substantive issue in dispute. To be sure, the declaratory judgment *concerned* ownership of certain money contingent on certain circumstances. However, plaintiff's complaint did not request monetary damages anywhere in its complaint. Indeed, plaintiff's purported entitlement to monetary damages would not result absent a decision to prepay the mortgage, a contingency that has yet to occur. Thus, we conclude that the circuit court had subject matter jurisdiction over plaintiff's complaint. Therefore, the circuit court erred by granting defendant's motion for summary disposition.

Similarly, the Court of Claims only has subject matter jurisdiction over disputes involving a claim for monetary damages. *Silverman, supra* at 217. Again, because plaintiff's complaint before the Court of Claims did not request monetary damages, the Court of Claims lacked subject matter jurisdiction to rule on the substantive merits of the issue. *Id.* Where a court lacks subject matter jurisdiction over a dispute, any action other than a dismissal is "absolutely void." *Todd, supra* at 628. Thus, the Court of Claims' rulings are void. Therefore, we need not address the merits of those rulings.²

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ David H. Sawyer

/s/ Donald S. Owens

² In making this ruling, we do not express any opinion regarding the Court of Claims' ruling on the substantive merits.