

STATE OF MICHIGAN
COURT OF APPEALS

VALUE WORLD, INC.,

Plaintiff-Appellant,

v

CITY OF DEARBORN HEIGHTS and
DEARBORN HEIGHTS TAX INCREMENT
FINANCE AUTHORITY,

Defendant-Appellee.

UNPUBLISHED
December 20, 2002

No. 236448
Wayne Circuit Court
LC No. 00-028654-CC

Before: Fitzgerald, P.J., and Wilder and Cooper, JJ.

PER CURIAM.

Plaintiff appeals as of right the order granting summary disposition in favor of defendants in this action arising from a landlord-tenant dispute. We affirm.

A district court adjudicated the landlord-tenant dispute in this matter and concluded that plaintiff failed to exercise its option to extend the lease and, therefore, defendants were entitled to possession of the property. Plaintiff thereafter filed an eight-count complaint in circuit court in which it essentially alleged that it did not exercise its right to extend the lease because defendants' conduct induced plaintiff to believe that exercising the option to extend the lease would have been futile.

Defendants subsequently moved for summary disposition in the circuit court seeking dismissal of plaintiff's complaint under MCR 2.116(C)(8) and (10) on the ground that the doctrines of res judicata and collateral estoppel barred the majority of plaintiff's claims. The trial court granted the motion, finding that:

They [plaintiff] did not renew in writing, and then ultimately the City had them evicted and they moved out in March of 2001.

There's no question of fact here. They simply did not renew, and therefore the lease expired. Defendant's motion is hereby granted.

On appeal, a trial court's grant or denial of summary disposition will be reviewed de novo. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). This Court must review the record in the same manner as must the trial court to determine whether the

movant was entitled to judgment as a matter of law. *Morales v Auto-Owners Ins*, 458 Mich 288, 294; 582 NW2d 776 (1998).

The district court's finding that plaintiff's failure to exercise its option to extend the lease and that the lease expired is binding in this proceeding. See, e.g., *Ditmore v Michalik*, 244 Mich App 569, 577; 625 NW2d 462 (2001). Plaintiff never alleged that defendants *prevented* plaintiff from exercising its rights under the lease and no facts were alleged that would support a finding that defendants prevented plaintiff from exercising its rights under the lease.¹ Plaintiff has cited no relevant authority for the assertion that its subjective belief that it would have been futile to exercise the option constitutes a valid defense to plaintiff's failure to exercise its option to renew the lease and protect its leasehold interest in the property.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Kurtis T. Wilder

/s/ Jessica R. Cooper

¹ Summary disposition is appropriate if further discovery does not stand a reasonable chance of uncovering factual support for the opposing party's position. *Village of Dimondale v Grable*, 240 Mich App 553, 566; 618 NW2d 23 (2000).