

STATE OF MICHIGAN
COURT OF APPEALS

WESTEASE YACHT SERVICE, INC.,

UNPUBLISHED

June 17, 2008

Plaintiff/Counter-Defendant-
Appellant,

v

No. 277401
Allegan Circuit Court
LC No. 05-037759-CK

PALM BEACH POLO HOLDINGS, INC.,

Defendant/Counter-Plaintiff-
Appellee.

Before: White, P.J., and Hoekstra and Smolenski, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court judgment for defendant in this property dispute. We affirm. This appeal is being decided without oral argument under MCR 7.214(E).

Plaintiff subleased property from defendant, which had leased the property from third parties. Defendant represented that the property subleased to plaintiff included 575 feet of riverfront footage. Following litigation, it was determined that the property leased to defendant only included 235 feet of riverfront footage. A dispute arose over the amount of rent owed and plaintiff filed suit for reformation of the sublease. Defendant filed a counterclaim for unpaid rent. Following a bench trial, the trial court decreased the rent by 25 percent, retroactive to the date the complaint was filed. Plaintiff contends that the trial court erred by failing to adjust the rent retroactive to the inception of the sublease.

The trial court's findings of fact in a bench trial are reviewed for clear error. *Chapdelaine v Sochocki*, 247 Mich App 167, 169; 635 NW2d 339 (2001). The trial court's conclusions of law and equitable decisions are reviewed de novo on appeal. *Sweet Air Investment, Inc v Kenney*, 275 Mich App 492, 496; 739 NW2d 656 (2007).

"In an action based on contract, the parties are entitled to the benefit of the bargain as set forth in the agreement." *Ferguson v Pioneer State Mut Ins Co*, 273 Mich App 47, 54; 731 NW2d 94 (2006). "The remedy for breach of contract is to place the nonbreaching party in as good a position as if the contract had been fully performed." *Corl v Huron Castings, Inc*, 450 Mich 620, 625; 544 NW2d 278 (1996). The amount of a plaintiff's damages is an issue of fact to be decided by the trier of fact. *McManamon v Redford Charter Twp*, 273 Mich App 131, 141;

730 NW2d 757 (2006). The plaintiff has the burden of proving its damages “with reasonable certainty.” *Alan Custom Homes, Inc v Krol*, 256 Mich App 505, 512; 667 NW2d 379 (2003).

Plaintiff sought to reduce its rent by 39 percent because the property it actually acquired was 39 percent less in area than the property as represented. The trial court disagreed because plaintiff failed to prove that the lease value of the property it acquired was 39 percent less than the lease value of the property as represented. The court appointed an appraiser, who determined the lease value of the property acquired for the 2005-2006 and 2006-2007 lease terms was approximately 25 percent less than the lease value of the property as represented. Plaintiff failed to present any evidence showing the lease value of the property acquired versus the lease value of the property as represented for the preceding lease terms and thus failed to prove that the 25 percent differential was applicable to the preceding lease terms. Because plaintiff failed to prove its damages for the preceding lease terms with any degree of certainty, the trial court did not err when it refused to make the rent adjustment retroactive to the inception of the sublease. Although the court provided different reasons for its decision, this Court will not reverse where the trial court reached the right result. See *Netter v Bowman*, 272 Mich App 289, 308; 725 NW2d 353 (2006).

Affirmed.

/s/ Joel P. Hoekstra
/s/ Michael R. Smolenski