STATE OF MICHIGAN

COURT OF APPEALS

RALPH C. SACHS,

Plaintiff-Appellee,

v

CITY OF DETROIT,

Defendant-Appellant.

UNPUBLISHED
December 28, 2010

No. 294582
Wayne Circuit Court
LC No. 07-708748-CH

Before: M.J. KELLY, P.J., and K.F. KELLY and BORRELLO, JJ.

PER CURIAM.

Defendant appeals as of right from a circuit court order granting plaintiff's motion to set aside and quash a writ of garnishment. For the reasons set forth in this opinion, we affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Defendant obtained a request for a writ of garnishment, stating that it received a judgment against plaintiff for $15,600. The facts that led to the litigation and the judgment are set forth in detail in this Court's opinion in a prior appeal. *Sachs v City of Detroit*, unpublished opinion per curiam of the Court of Appeals, issued February 19, 2009 (Docket No. 280859). In that case, plaintiff alleged that defendant had wrongfully demolished his building, and defendant filed a counter-complaint to recover the cost of demolition. The trial court granted summary disposition in favor of defendant with respect to the claims in the complaint, and entered a judgment in favor of defendant on the counterclaim. The judgment stated in part:

> IT IS HEREBY ORDERED:
>
> * * *
>
> 3. Judgment in the amount of $15,600.00 is granted in favor of the City of Detroit and against the Plaintiff Ralph Sachs on the counter-claim for the demolition costs incurred by the City of Detroit. The judgment shall be a lien against the property at 5000-5010 W. Warren, City of Detroit until the judgment is satisfied.

Plaintiff appealed. Among other issues, he argued that "the trial court was not authorized to enter judgment against plaintiff on defendants' counterclaim where the local ordinance provided for a lien against the property, not a personal judgment against a party." *Sachs*, unpub

opn at 3. This Court found it unnecessary to resolve whether the trial court was authorized to enter judgment against plaintiff personally, because such a judgment had not been entered. This Court explained:

> However, review of the written language of the order reveals that the trial court expressly provided that the judgment amount for the cost of the demolition constituted a 'lien' against the property. This is the remedy provided by law. MCL 125.541; MCL 125.541a." [*Sachs*, unpub opn at 3.]

After this Court's decision, defendant sought a writ of garnishment, which was issued on July 29, 2009. Plaintiff filed an objection and asked the trial court to quash it, arguing that the debt upon which the garnishment was based was a lien on real property, which is a debt that is in rem in nature and may not be the basis for garnishment of a bank account.

In response, defendant argued that pursuant to city ordinance and MCL 125.541(7), it was entitled to proceed against plaintiff personally for the cost of demolition, that it did so, and that the judgment was entered in its favor. Defendant argued that the sentence in the judgment, "The judgment shall be a lien against the property at 5000-5010 W. Warren, City of Detroit until the judgment is satisfied," did not limit its options to collect the debt by other means, including garnishment.

This Court reviews for an abuse of discretion a trial court's order quashing a writ of garnishment. *Cortez v Int'l Union, United Auto, Aircraft & Agricultural Workers of America (UAW-CIO)*, 339 Mich 446, 453; 64 NW2d 636 (1954). This issue also implicates the law of the case doctrine. "Whether and to what extent the doctrine applies is a question of law that this Court reviews de novo." *Kasben v Hoffman*, 278 Mich App 466, 470; 751 NW2d 520 (2008).

As this Court explained in *Kasben*:

> When this Court disposes of an appeal by opinion or order, the opinion or order is the judgment of the Court. MCR 7.215(E)(1). And a lower court may not take action on remand that is inconsistent with the judgment of the appellate court. Rather, the trial court is bound to strictly comply with the law of the case, as established by the appellate court, according to its true intent and meaning. However, the law-of-the-case doctrine only applies to issues actually decided—implicitly or explicitly—on appeal. Whether and to what extent the doctrine applies is a question of law that this Court reviews de novo. [*Id.* at 470 (citations and internal quotation marks omitted).]

The parties do not dispute that the propriety of a writ of garnishment for collection depends on whether the underlying judgment is against a party individually. The trial court concluded that the writ of garnishment was improper because defendant's judgment was a lien against the property, not against plaintiff personally. Such a conclusion was in accordance with the conclusions reached by this Court in the prior appeal. Because the trial court was bound by our determination that the underlying judgment was *not* against plaintiff personally, the trial court could not allow the writ of garnishment to stand without violating the law of the case. *Kasben*, 278 Mich App at 470. Therefore, the trial court did not abuse its discretion in quashing the writ, consistent with this Court's prior decision.

Affirmed. Plaintiff, being the prevailing party, is entitled to costs. MCR 7.219.

/s/ Michael J. Kelly
/s/ Kirsten Frank Kelly
/s/ Stephen L. Borrello