

[Cite as *Arvon Funding, L.L.C. v. Prebigon Invests.*, 2010-Ohio-5615.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 95119

ARVON FUNDING, LLC

PLAINTIFF-APPELLANT

vs.

PREBIGON INVESTMENTS, ET AL.

DEFENDANTS-APPELLEES

**JUDGMENT:
REVERSED AND REMANDED**

Civil Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CV-681190

BEFORE: Rocco, P.J., Stewart, J., and Dyke, J.

RELEASED AND JOURNALIZED: November 18, 2010

ATTORNEY FOR APPELLANT

Jeffrey P. Posner
Jeffrey P. Posner, LLC
3393 Norwood Road
Shaker Heights, Ohio 44122

APPELLEES

Prebigon Investments, a.k.a. The Youngstown Sports Grille
7463 South Avenue
Boardman, Ohio 44512

KENNETH A. ROCCO, P.J.:

{¶ 1} This appeal is before the Court on the accelerated docket pursuant to

{¶ 2} App.R. 11.1 and Loc. App.R. 11.1. The purpose of an accelerated appeal is to allow the appellate court to render a brief and conclusory opinion. *Crawford v. Eastland Shopping Mall Assn.* (1983), 11 Ohio App.3d 158, 463 N.E.2d 655.

{¶ 3} On June 8, 2009, the common pleas court entered judgment in favor of plaintiff-appellant, Arvon Funding, LLC, and against

defendants-appellees, Prebigon Investments, LLC and Sean Prebigon, jointly and severally, in the amount of \$6,116.35 plus 18% interest from February 13, 2008, and \$28,377.23 plus 5% interest from the date of judgment.

{¶ 4} On April 15, 2010, appellant moved the court to appoint a receiver to “take control of, operate, and liquidate the assets of [appellee Prebigon] to satisfy the judgment.” Appellant urged that Prebigon’s primary asset was the Youngstown Sports Grille and its liquor license. Appellant further claimed that to issue execution on its judgment would be a vain act because the appellees had insufficient assets to pay the judgment.

{¶ 5} On April 20, 2010, the court denied appellant’s motion stating that: “As this court no longer has jurisdiction over the within matter, plaintiff’s motion for appointment of receiver and for injunction (filed 4/15/2010) is denied.” Appellant has appealed from this ruling.

{¶ 6} The court erred by denying appellant’s motion for lack of jurisdiction. Although the court had already entered judgment in the underlying case, it retained jurisdiction to enforce its judgment. *Collins v. Collins* (2000), 139 Ohio App.3d 900, 906, 746 N.E.2d 201. Appointment of a receiver after judgment may aid the execution of the judgment. R.C. 2735.01(D) expressly allows a common pleas court judge to appoint a receiver, “[a]fter judgment, * * * when an execution has been returned unsatisfied and

the judgment debtor refuses to apply the property in satisfaction of the judgment.”

{¶ 7} Therefore, we reverse and remand for further proceedings consistent with this opinion. We express no opinion on the question whether the court should grant or deny the motion, in the exercise of its discretion.

It is ordered that appellant recover from appellees costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate be sent to said court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

KENNETH A. ROCCO, PRESIDING JUDGE

MELODY J. STEWART, J., and
ANN DYKE, J., CONCUR