

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-11-00027-CV

MACK T. SPEARS, Appellant

V.

ANTOINE LECOMPTE, Appellee

On Appeal from the County Court at Law No. 1
Jefferson County, Texas
Trial Cause No. 117078

MEMORANDUM OPINION

In this forcible detainer suit, Mack T. Spears appeals the trial court's summary judgment in favor of Antoine Lecompte. We affirm the trial court's judgment.

Background

In July 2004, Lecompte married Elma Wise, the owner of the property at issue. Wise and Lecompte lived in the home (the Wise home) located on the property. Approximately two years after they married, Wise died intestate. An affidavit of heirship, contained in the record before the trial court, indicates that Wise was survived by her

husband, Lecompte, and her daughter from another marriage, Terenda Roman-Simmons. Although Lecompte continued to live in the Wise home after Wise died, Roman-Simmons transferred her interest in the property to Spears through a quitclaim deed in June 2010.

Seeking possession of the Wise home, Spears filed a forcible detainer suit in the Justice of the Peace Court. Spears alleged that Lecompte was a tenant who had leased the property from him, that Lecompte owed \$2,250 in back rent, and that Spears was entitled to possession of the Wise home. The justice court, in its judgment, gave Spears possession but awarded him no damages. Lecompte perfected an appeal of the judgment to the county court, filing the required affidavit. *See* Tex. R. Civ. P. 749, 749b, 751.

In September 2010, Lecompte served Spears with requests asking that he admit that Lecompte was not a tenant and to admit that there was no landlord/tenant relationship between them. Spears failed to timely answer Lecompte's requests for admissions, and after the requests had been deemed admitted by virtue of Spears's failure to answer them, Lecompte filed a traditional motion for summary judgment. Although Spears did not file a written response to Lecompte's motion for summary judgment, he attended the summary judgment hearing in January 2011. The trial court granted Lecompte's motion for summary judgment.

Spears, acting *pro se*, filed a notice of appeal and a brief. Spears asks that we review the trial court's decision to grant Lecompte's motion for summary judgment.

Standard of Review

We review a trial court's decision to grant a motion for summary judgment under a de novo standard. *Valence Operating Co. v. Dorsett*, 164 S.W.3d 656, 661 (Tex. 2005). When, as here, the trial court grants the motion for summary judgment without specifying the grounds for its decision, we affirm the summary judgment if any of the grounds presented in the motion have merit. *FM Props. Operating Co. v. City of Austin*, 22 S.W.3d 868, 872 (Tex. 2000). The party filing a traditional motion for summary judgment has the burden to show that no genuine issue of material fact exists and that he is entitled to judgment as a matter of law. Tex. R. Civ. P. 166a(c); *Am. Tobacco Co. v. Grinnell*, 951 S.W.2d 420, 425 (Tex. 1997). Generally, a defendant is required to conclusively negate at least one essential element of each of the plaintiff's causes of action or to conclusively establish each element of an affirmative defense to succeed on a traditional motion for summary judgment. *Sci. Spectrum, Inc. v. Martinez*, 941 S.W.2d 910, 911 (Tex. 1997). "Evidence is conclusive only if reasonable people could not differ in their conclusions" *City of Keller v. Wilson*, 168 S.W.3d 802, 816 (Tex. 2005). Once the defendant has established his right to summary judgment as a matter of law, the plaintiff must present evidence raising a genuine issue of material fact to avoid losing on the defendant's motion. *City of Houston v. Clear Creek Basin Auth.*, 589 S.W.2d 671, 678-79 (Tex. 1979). In reviewing the judgment, we take as true all evidence favorable to the nonmovant, indulging every reasonable inference and resolving any doubts in the

nonmovant's favor. *See Joe v. Two Thirty Nine Joint Venture*, 145 S.W.3d 150, 157 (Tex. 2004).

Analysis

A forcible detainer action is a special proceeding governed by particular statutes and rules, which “was created to provide a speedy, simple, and inexpensive means for resolving the question of the right to possession of premises.” *Rice v. Pinney*, 51 S.W.3d 705, 709 (Tex. App.—Dallas 2001, no pet.); *see* Tex. Prop. Code Ann. §§ 24.001-24.011 (West 2000 & Supp. 2010); Tex. R. Civ. P. 738-755. Generally, the “sole issue” in the suit is “who has the right to *immediate* possession of the premises.” *Rice*, 51 S.W.2d at 709; *see* Tex. R. Civ. P. 746. “To prevail in a forcible detainer action, a plaintiff is not required to prove title, but is only required to show sufficient evidence of ownership to demonstrate a superior right to immediate possession.” *Rice*, 51 S.W.3d at 709. Spears’s petition asserted that Lecompte is a tenant or subtenant who had not paid rent; he did not allege that Lecompte had forcibly acquired possession of the Wise home. *Compare* Tex. Prop. Code Ann. § 24.002(a) (West 2000), *with* Tex. Prop. Code Ann. § 24.001(a) (West Supp. 2010).

By not timely answering the requests for admission, Spears admitted that Lecompte was living at the Wise home before and after Roman-Simmons transferred her interest in the Wise home to Spears. Spears also admitted that “Lecompte was not renting from T[e]renda Roman-Simmons.” Spears admitted that he never signed a contract with

Lecompte, and that Lecompte had never paid him any rent. Last, Spears admitted that he did not have a landlord/tenant relationship with Lecompte. Because Lecompte's summary judgment proof was sufficient to show that he was not Spears's tenant as alleged by Spears, the trial court could reasonably conclude that Spears failed to establish that he was entitled to the immediate possession of the property. *See* Tex. Prop. Code Ann. § 24.002; *Rice*, 51 S.W.2d at 709. Lecompte's motion for summary judgment was sufficient to shift the burden of proof to Spears to establish that Lecompte was not entitled to possession. *See Centeq Realty, Inc. v. Siegler*, 899 S.W.2d 195, 197 (Tex. 1995) (stating that once the movant produces sufficient evidence conclusively establishing its right to summary judgment, the burden of proof shifts to the nonmovant to present evidence sufficient to raise a fact issue). Absent a response, Lecompte's motion for summary judgment was sufficient to establish that there were no genuine issues of material fact and that he was entitled to summary judgment as a matter of law. *See* Tex. R. Civ. P. 166a(c); *Grinnell*, 951 S.W.2d at 425; *Sci. Spectrum*, 941 S.W.2d at 911.

We hold that the trial court properly granted Lecompte's motion for summary judgment. We affirm the trial court's judgment.

AFFIRMED.

HOLLIS HORTON
Justice

Submitted on August 15, 2011
Opinion Delivered August 25, 2011
Before Gaultney, Kreger, and Horton, JJ.