

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

JAMES A. WILSON,	:	
	:	04C-03-031 WLW
Plaintiff,	:	
	:	
v.	:	
	:	
ANGELA C. WILSON,	:	
	:	
Defendant.	:	

Submitted: May 19, 2006

Decided: July 7, 2006

ORDER

Upon Defendant's Motion for Summary Judgment. Denied.
Upon Plaintiff's Cross Motion and Amended Cross
Motion for Summary Judgment. Denied.

James A. Wilson, *pro se*

Glynis A. Gibson, Esquire of Gibson & Nowak, Dover, Delaware; attorneys for the
Defendant.

WITHAM, R.J.

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Defendant, Angela Wilson, filed a motion for summary judgment, arguing that she never had Power of Attorney over the property¹ at dispute in this case. Additionally, Plaintiff and Defendant's mother, Bessie Wilson-Smith, submitted an affidavit claiming that she has a valid Power of Attorney and received payment for Plaintiff's lost property in the amount of \$4,070.00.² Plaintiff, James Wilson, Defendant's brother, asserts that Defendant was in possession of his property, that she made mortgage payments and that she alleged in a complaint in another civil case that she made payments pursuant to a security agreement and a Power of Attorney.³ He also contends that she was compensated for her lost property, as well as his lost property, in the amount of \$62,500.00 from Greenpoint Mortgage, which held the mortgage for his mobile home at Barker's Landing. Defendant did not explain what the \$62,500.00 was payment for in her response. However, a copy of the General Release of All Claims signed by Defendant reveals that the release was in connection to "any claims arising from or pertaining to a repossession of a manufactured home located at 383 Jury Drive, Magnolia, Delaware, that occurred on or about January 30, 2001."

In addition, Plaintiff has filed a cross motion for summary judgment arguing that Defendant signed a lease agreement concerning Plaintiff's property at 383 Jury Drive and alleges that Defendant admits that she had a Power of Attorney to allow her to stay

¹The property consisted of two mobile homes, a BMW and other personal items.

²The \$4,070.00 was only for personal property, not the mobile home, according to the Proof of Loss.

³Plaintiff has not produced a copy of a Power of Attorney appointing Defendant.

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there so as not to lose his property at that location. Plaintiff further contends that the \$62,500.00 received from Greenpoint Mortgage should have included his property and that 95% of the property at that location was his.⁴

For the reasons set forth below, Defendant's Motion for Summary Judgment as well as Plaintiff's Cross Motion for Summary Judgment and Amended Cross Motion for Summary Judgment are *denied*.

Standard of Review

Superior Court Civil Rule 56(c) provides that judgment "shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law."⁵ On a motion for summary judgment the Court examines the record to determine whether any material issues of fact exist. Summary judgment will only be granted when, after viewing the record in a light most favorable to the non-moving party, no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law.⁶ Summary judgment will not be granted when a more thorough inquiry into the facts is desirable to clarify the application of the law to the

⁴ This is alleged along with additional prayers for relief in the Amended Cross Motion for Summary Judgment filed by Plaintiff on June 29, 2006.

⁵ Super. Ct. Civ. R. 56.

⁶ *Oliver B. Cannon & Sons, Inc. v. Dorr-Oliver, Inc.*, 312 A.2d 322, 325 (Del. Super. Ct. 1973); *see also McCall v. Villa Pizza, Inc.*, 636 A.2d 912 (Del. 1994).

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circumstances.⁷

Discussion

Considering the facts in a light most favorable to Plaintiff, there are clearly still issues of material fact, which require a more thorough inquiry. Specifically, whether the \$62,500.00 payment from Greenpoint Mortgage was, at least in part, payment for the mobile home, which Plaintiff owned. And, considering the facts in a light most favorable to the Defendant on the Cross and Amended Cross Motions for Summary Judgment, there are clear issues of material fact that can only be resolved by a jury.⁸

Based on the foregoing, Defendant's Motion for Summary Judgment along with Plaintiff's Cross Motion for Summary Judgment and Amended Cross Motion for Summary Judgment are *denied*. A Scheduling Order will be issued.

IT IS SO ORDERED.

/s/ William L. Witham, Jr.

R.J.

WLW/dmh

oc: Prothonotary

xc: Order Distribution

⁷ *Ebersole v. Lowengrub*, 180 A.2d 467, 470 (Del. 1962).

⁸ Defendant filed a Motion for More Definite Statement which was presumably filed in response to Plaintiff's Cross Motion for Summary Judgment. Defendant's motion is deemed *moot*. The Response to Amended Cross Motion for Summary Judgment is acknowledged, but it does not advance this matter.