

**IN THE SUPREME COURT OF THE STATE OF DELAWARE**

CHARLES N. MORGAN,	§	
	§	No. 639, 2012
Petitioner Below,	§	
Appellant,	§	Court Below: Superior Court
	§	of the State of Delaware
v.	§	in and for Sussex County
	§	
BRENNAN TITLE COMPANY, and	§	
GEOFFREY CHRIST, ESQ.,	§	C. A. No. S11C-05-003
	§	
Respondents Below,	§	
Appellees.	§	

Submitted: March 20, 2013

Decided: May 20, 2013

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices.

**ORDER**

This 20<sup>th</sup> day of May, 2013, on consideration of the briefs of the parties, it appears to the Court that:

1) Charles M. Morgan appeals from a Superior Court decision awarding him \$17,500 in damages arising from Brennan Title Company's negligence in performing a title search. Morgan complains that the trial court erred in its calculation of damages, and in finding that Morgan failed to mitigate damages. We find no merit to these claims and affirm.

2) In 2007, a buyer agreed to pay \$267,000 for Morgan's condominium. That price was \$17,000 higher than the price Morgan paid in 2004. The buyer's title search, however, revealed an unrecorded ground lease assignment. Morgan was unable to cure the title problem within two months and the buyer terminated the contract.

3) Morgan relisted the property at \$295,000 without success. Over the next 18 months, Morgan reduced the asking price, but did not reduce the price to \$267,000 before taking the property off the market in 2009. The property sold for \$190,000 in 2012.

4) Morgan filed a negligence claim against Brennan and its attorney. Liability was not disputed, but the parties were unable to agree on damages. Morgan was seeking approximately \$130,000, whereas Brennan agreed to pay only \$17,500. At a pretrial conference, the Superior Court advised the parties that it "would have a difficult time moving past damages in the amount of \$17,000."<sup>1</sup> In order to avoid the expense, both sides asked the Superior Court to rule on damages without a trial.

5) In reaching its decision, the Superior Court noted that it did not know:  
1) why the title defect could not be cured; 2) whether the first buyer could have been forced to go to settlement; 3) why Morgan put the property back on the market before

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<sup>1</sup> *Morgan v. Brennan Title*, C.A. No. S11C-05-003, at 1 (Del. Super., November 19, 2012).

the first buyer terminated the contract; or 4) why Morgan put the property back on the market at a higher price.

6) Based on what it did know, the trial court held that Morgan failed to mitigate damages. The trial court relied on the fact that Morgan did not attempt to rent the property during the four years that this matter was pending, and Morgan did not relist the property at the original sale price.

7) Morgan agreed to bypass a trial and have the trial court essentially arbitrate his damage claims. The trial court relied on general principles of law governing the calculation of damages, and reached a reasonable decision. In light of the truncated proceeding below, no further review is required.

NOW, THEREFORE, IT IS ORDERED that the above-captioned matter be, and the same hereby is, AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger  
Justice