IN THE COURT OF APPEALS OF IOWA

No. 8-840 / 08-0364
Filed January 22, 2009

FRONTIER LEASING CORPORATION,
Plaintiff-Appellant,

vs.

DUFF CUNNINGHAM GOLF SHOP, INC., and
DUFF CUNNINGHAM, Individually,
Defendants-Appellees.

Appeal from the Iowa District Court for Polk County, Karen A. Romano, Judge.

Frontier Leasing Corporation appeals the dismissal of C & J Vantage Leasing Co.'s lawsuit against Duff Cunningham Golf Shop, Inc. and Duff Cunningham. **APPEAL DISMISSED.**

Edward McConnell of Ginkens & McConnell, P.L.C., Clive, for appellant.

Stephen Lombardi, West Des Moines, for appellees.

Considered by Vogel, P.J., and Mahan and Miller, JJ.

MILLER, J.

C & J Vantage Leasing Co. ("Vantage Leasing") sued Duff Cunningham Golf Shop, Inc., (Cunningham Golf) and Duff Cunningham (Cunningham) (collectively "the defendants"). Vantage Leasing sought a return of leased property together with money damages, claiming Cunningham Golf as lessee and Cunningham as guarantor of Cunningham Golf's obligations under the lease had breached the lease by failing to make payments required by the lease. In their eventual answer, served March 28, 2007, the defendants denied that Vantage Leasing was the real party in interest and further stated as an affirmative defense that Vantage Leasing was not the real party in interest.

In a ruling filed January 9, 2008, following a hearing on the defendants' motion to dismiss on real party in interest grounds, the district court found that the only named plaintiff was Vantage Leasing, Vantage Leasing had assigned the lease in question to Frontier Leasing Corporation (Frontier) on April 8, 2005, Vantage Leasing had had the ensuing time period to seek to amend its petition or substitute parties but had failed to do so, and that the file contained no application to amend the petition or substitute parties. Frontier, never a party to the lawsuit in the district court, filed a "Motion to Reconsider" on January 14, 2008. The defendants resisted the motion and the district court denied the motion on February 15. Frontier served and filed a notice of appeal on February 22, 2008.

On appeal Frontier claims the district court erred in dismissing Vantage Leasing's petition because (1) by answering Vantage Leasing's petition

defendants waived any right to claim Vantage Leasing was not the real party in interest, (2) if the defendants' answer did not constitute a waiver, the defendants could only raise the real party in interest issue by way of motion for summary judgment,[1] and (3) a reasonable time had not been allowed for substitution of Frontier as the real party in interest.[2] The defendants in turn seek dismissal of Frontier's purported appeal, claiming in part (1) the appeal is untimely under Iowa Rule of Appellate Procedure 6.5 as Frontier's post-ruling motion did not extend the time for a notice of appeal, and (2) Frontier, never a party to this case in the district court, has no standing to pursue an appeal. We agree with this latter contention and do not reach or address the other claims raised.

In *Alons v. Iowa Dist. Ct.*, 698 N.W.2d 858 (Iowa 2005), our supreme court addressed the question of whether several persons who had not been parties in proceedings before the district court had standing to challenge the decree entered by the district court. The court noted its previous pronouncement that "standing to sue means a party must have sufficient stake in an otherwise justiciable controversy to obtain judicial resolution of that controversy." *Id*. at 863-64 (quotations and citations omitted). The court further explained that "this means that a complaining party must (1) have a specific personal or legal interest in the litigation and (2) be injuriously affected. Having a legal interest in the

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[1] We note that in its appeal brief Frontier, as a nominal appellant, acknowledges that no later than November 1, 2006, any previously unassigned lessor's rights in the lease in question had been assigned to it and notice of the assignment had been given to the defendants.

[2] *See* Iowa R. Civ. P. 1.201 ("No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest . . . .").

litigation and being injuriously affected are separate requirements for standing." *Id.* at 864 (quotation and citations omitted). In addition, the court stated:

> Standing is a doctrine courts employ to refuse to determine the merits of a legal controversy irrespective of its correctness, where the party advancing it is not properly situated to prosecute the action. When standing is put in issue, the question is whether the person whose standing is challenged is a proper party to request an adjudication of the issue and not whether the controversy is otherwise justiciable, or whether, on the merits, the plaintiff has a legally protected interest that the defendant's action has invaded.
>
> In short, the focus is on the party, not on the claim. Even if the claim could be meritorious, the court will not hear the claim if the party bringing it lacks standing.

Id. (citations omitted).

Although *Alons* involved a certiorari action, we believe that its reasoning and application of rules concerning standing apply equally to Frontier's attempt to appeal in this case. We conclude that Frontier, never a party to the lawsuit in the district court, had no specific personal or legal interest in that lawsuit between the plaintiff Vantage Leasing and the defendants, thus lacks standing to pursue this appeal, and the appeal should therefore be dismissed.

APPEAL DISMISSED.