

**Commonwealth of Kentucky**

**Court of Appeals**

NO. 2016-CA-000489-DG

KIWANIS CLUB OF LAGRANGE, INC.

APPELLANTS

ON DISCRETIONARY REVIEW  
FROM OLDHAM CIRCUIT COURT  
v. HONORABLE KAREN A. CONRAD, JUDGE  
ACTION NO. 15-XX-00003

FRIENDS OF OLDHAM COUNTY  
FAIR, INC.

APPELLEES

OPINION  
AFFIRMING

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BEFORE: COMBS, D. LAMBERT, AND THOMPSON, JUDGES.

LAMBERT, D., JUDGE: The Kiwanis Club of Lagrange, Inc. (“Kiwanis”) moved this Court for discretionary review of an order entered by the Oldham Circuit Court affirming the entry of an order of forcible detainer by the Oldham District Court in favor of another civic organization, the Friends of Oldham County Fair. Inc. (“the Fair”). Kiwanis asks this Court to determine whether the district court properly

exercised jurisdiction over the forcible detainer action in light of the fact that the dispute also necessarily implicated an interest in the equity of an improvement constructed by Kiwanis which exceeded the jurisdictional maximum of the district court. After reviewing the record, we conclude that the district court properly exercised subject-matter jurisdiction. Consequently, we affirm.

## **I. FACTUAL AND PROCEDURAL HISTORY**

This action originated in a dispute between two civic organizations in Oldham County regarding parcel of realty owned by the Fair and leased to Kiwanis.

In 1991, the parties entered into an agreement whereby Kiwanis agreed to lease land from the Fair. As part of this agreement, Kiwanis agreed to remove any existing structures and construct a building suitable as a meeting place for both organizations. This agreement also obligated Kiwanis to maintain the building, and to cure any maintenance issues within 60 days of a request from the Fair to do so. In the event of a termination of the lease agreement, possession of the land and ownership of the improvements would fall to the Fair. In consideration for these obligations, Kiwanis was to pay only nominal rent in the amount of one dollar annually for the rental period of fifty years, and the agreement was renewable in perpetuity.

In accordance with the agreement, Kiwanis constructed a 3,200-square foot facility complete with a kitchen, two meeting rooms, and a large bay garage. The cost of this improvement was approximately \$75,000, financed

through loans obtained by Kiwanis<sup>1</sup>. After completion, Kiwanis held weekly meetings there, and the Fair also used the building free of charge.

This arrangement served both groups well until 2014. The Fair requested that Kiwanis address the substantial infiltration of mold and rainwater that had developed. After the Fair determined Kiwanis had failed to take adequate action to address the damage per the terms of the lease agreement, the Fair filed a complaint in Oldham District Court seeking an order of forcible detainer on October 21, 2014.

Kiwanis filed a motion to dismiss in lieu of an answer on November 17, 2014, arguing the district court lacked subject-matter jurisdiction. The district court denied the motion, and upon request by the Fair, assigned the matter for trial on September 10, 2015.

On the same day the district court entered its order setting the trial date, Kiwanis filed an action seeking declaratory judgment in Oldham Circuit Court. Kiwanis asked the circuit court to determine whether the district court had jurisdiction to resolve the forcible detainer action, to determine who had proper title to the building, to determine who had proper title to the land, and to decide matters relating to the compensation for the equity in the building, and to reform the lease.

On September 8, 2015, just two days before the trial date in the district court action, the circuit court issued its ruling. The circuit court held that

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<sup>1</sup> These financial obligations have since been satisfied.

the Fair had an “interest in the building as the lessor that would ripen into a possessory interest if the triggering events occur, and the cure provisions are not met.” The circuit court allowed the forcible detainer action to proceed, without specifically addressing Kiwanis’ arguments regarding jurisdiction. Kiwanis did not appeal this ruling.

Kiwanis filed its answer and counterclaim in the forcible detainer action on September 9, 2015, and the matter proceeded to trial the next day as scheduled. The jury unanimously found in favor of the Fair, and the district court entered the order of forcible detainer. Kiwanis appealed to the circuit court, which affirmed.

Kiwanis then filed the instant petition for discretionary review, wherein it asserts that the district court improperly exercised jurisdiction over the forcible detainer action.

## II. ANALYSIS

“Forcible detainer actions are designed to be summary proceedings. In general, the only issues are possession by the plaintiff and detainer by the defendant.” *Baker v. Ryan*, 967 S.W.2d 591, 593 (Ky. App. 1997) (citing 35 Am. Jur. 2d. *Forcible Entry and Detainer* § 6 (1992)). Despite the common law origin of such actions, modern forcible detainer actions are creatures of statute, governed by KRS 383.200 *et seq.* *Shinkle v. Turner*, 496 S.W.3d 418 (Ky. 2016). Jurisdiction for these actions is vested in the district courts. KRS 383.210; KRS 24A.120.

Though the Fair filed the civil action seeking to avail itself solely of its contractual and statutory rights in the leased property, Kiwanis argues that the dispute reaches further than a simple eviction. Kiwanis contends the action touches on the issue of which party is entitled to the equity in the improvements, and allowing the district court to adjudicate the rights of the parties has a preclusive effect on its ability to assert its rights to the ownership of the building and the equity built therein. The ownership and equity issues, if asserted in their own action, would be required under KRS 24A.120(1) to be heard by the circuit court, as the amount in controversy would exceed the jurisdictional maximum of the district court. However, that issue was not asserted as a claim for damages on its own.

Kiwanis argues that because it asserted a defense in the forcible detainer action that put title or equity in issue, the district court lacked subject-matter jurisdiction over the action. To that end, Kiwanis cites *Floyd v. Nester*, 268 S.W.2d 933 (Ky. 1954) and *Emmons v. Madden*, 781 S.W.2d 529 (Ky. App. 1989). Neither case lends real support to Kiwanis' position, nor do they involve equity in improvements to the land.

In *Floyd*, the administratrix of an estate initiated forcible detainer proceedings against occupants of real property who claimed to have purchased the disputed property from the decedent prior to his death. *Floyd* at 933-34. Thus, a genuine question as to actual ownership of the real property existed, which would have vested the circuit court with subject-matter jurisdiction.

In *Emmons*, the purchaser of real property brought a forcible detainer action against the seller when the seller refused to relinquish possession of the property. *Emmons* at 529. However, the seller produced evidence of a joint venture agreement whereby the buyer would re-convey half the property to the seller, and they would operate the business located on the property together. *Id.* The Court held that the district court lacked jurisdiction under the forcible detainer statute because the parties were not in a landlord-tenant relationship, and reversed the circuit court, directing it to vacate the district court's eviction order.

The same result occurred in another case relied upon by Kiwanis, *Coffey v. Kehoe Rock and Stone, LLC*, 270 S.W.3d 902 (Ky. App. 2008). The Court held that a mineral lease granted the lessee an "incorporeal interest in land" rather than a possessory leasehold interest. *Id.* at 904. Thus, the parties were not landlord and tenant as contemplated in the forcible detainer statute, and the district court lacked jurisdiction.

The parties in this case are indisputably landlord and tenant as to the realty, and it is equally beyond dispute that title to the realty remained at all times with the Fair. Kiwanis has shown no legal basis by which the district court could be deprived of its legislatively-vested jurisdiction here. The ownership of an improvement located on certain land does not equate to any ownership interest in that land itself. *Louisville Garage Corp. v. City of Louisville*, 198 S.W.2d 40, 41 (Ky. 1946).

Kiwanis' equity argument is insufficient to accomplish its intended purpose: to mandate dismissal of the forcible detainer action. The sole issue was the determination of the propriety of Kiwanis' continued occupancy of the leased premises after a breach. The equity issue was put before the circuit court in the declaratory action, and in that action, the circuit court correctly interpreted the terms of the lease to state that ownership of the building passes to the Fair in the event of a termination of the lease. The circuit court properly affirmed the district court's judgment in the forcible detainer action. Kiwanis' assertion of the equity argument in this appeal was addressed in the declaratory judgment action from which no appeal was taken.

### **III. CONCLUSION**

Having reviewed the record, we find no error in district court's exercise of its statutory jurisdiction, and likewise find no error in the circuit court's opinion affirming such exercise.

ALL CONCUR.

BRIEF FOR APPELLANT:

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LaGrange, Kentucky

BRIEF FOR APPELLEE:

Daniel Ward Fendley  
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