STATE OF MICHIGAN

COURT OF APPEALS

TRANSNATION TITLE, Plaintiff-Appellant,	UNPUBLISHED February 14, 2008
v	No. 273218 Macomb Circuit Court
HANI ATTY, a/k/a HANI MANSOOR Defendant-Appellee.	LC No. 2006-002526-AV

Before: Markey, P.J., and Meter and Murray, JJ.

PER CURIAM.

Plaintiff Transnation Title Company appeals by leave granted from a circuit court order that reversed an earlier district court order. The district court had concluded that plaintiff was entitled to summary disposition in its lawsuit against defendant Hani Atty, but the circuit court disagreed. We affirm the judgment of the circuit court.

The pertinent facts in this case are not disputed. Defendant received, as part of a divorce judgment, a residence located in Madison Heights. He planned to sell the property and hired plaintiff to assist him in doing so. Plaintiff issued a commitment for title insurance on June 26, 1999.

In connection with the divorce action, defendant had retained attorney Patricia M. Cooper to represent him. She claimed that defendant owed her attorney fees, and on June 29, 1999, she filed in the Oakland County Register of Deeds a "notice of claim of attorney fee lien" against the Madison Heights property, specifying the amount of $15,000. Paragraph 13 of her fee agreement with defendant stated, in part:

> ATTORNEYS are given a lien on the claim or cause of action against any sums recovered by way of settlement or judgment for the amounts previously mentioned as their fee. ATTORNEYS shall have general, possessory or retaining CLIENT'S liens, and all special or charging liens known to law.

On September 24, 1999, defendant transferred the property; the policy of title insurance issued in connection with the sale did not note the existence of the lien. Cooper's lien came to light when the people who purchased the property from defendant sought to sell the property themselves. Plaintiff paid the amount of the lien and thereafter sued defendant in district court to recover the $15,000. Plaintiff then moved for summary disposition under MCR 2.116(C)(10),

arguing that the lien was valid because it was allowed by the express agreement between Cooper and defendant and further arguing that it was proper for plaintiff to satisfy the outstanding lien in order to clear the title. Defendant argued that the lien was not valid because Cooper did not take the proper steps to secure the lien. He argued that, in paying the amount of the lien, plaintiff essentially acted as a volunteer.

The district court, citing *George v Sandor M Gelman, PC*, 201 Mich App 474; 506 NW2d 583 (1993), found that Cooper and defendant had an agreement for a charging lien, that plaintiff therefore properly paid the amount of the lien, and that summary disposition in plaintiff's favor was appropriate. Defendant appealed to the circuit court, which reversed the district court's ruling. The circuit court also relied on *George*, but concluded that, under *George*, summary disposition for plaintiff was not warranted.

On appeal, plaintiff's sole argument is that the lien was valid under *George* and that the circuit court's judgment should therefore be reversed and summary disposition reinstated. We review a grant of summary disposition de novo. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). In reviewing an order granting summary disposition under MCR 2.116(C)(10), we analyze the factual support for the claims made by examining the pleadings, depositions, affidavits, and other evidence submitted by the parties. *Id*. We review the pleadings and evidence in the light most favorable to the nonmoving party. *Zsigo v Hurley Medical Ctr*, 475 Mich 215, 220; 716 NW2d 220 (2006). "Where the proffered evidence fails to establish a genuine issue regarding any material fact, the moving party is entitled to judgment as a matter of law." *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999).

In *George*, *supra* at 475, the defendant had represented the plaintiff in a divorce action and subsequently recorded an attorney fee lien against a condominium that the plaintiff obtained as part of the divorce settlement. The plaintiff sued to remove the lien. *Id*. This Court addressed the following issue: "whether an attorneys' lien can attach to a client's real property." *Id*. at 476. The Court, after concluding that, in general, attorney fee liens do *not* attach to a client's real property, see *id*. at 477-478, stated:

> We conclude that an attorneys' charging lien for fees may not be imposed upon the real estate of a client, even if the attorney has successfully prosecuted a suit to establish a client's title or recover title or possession for the client, unless (1) the parties have an express agreement providing for a lien, (2) the attorney obtains a judgment for the fees and follows the proper procedure for enforcing a judgment, or (3) special equitable circumstances exist to warrant imposition of a lien.
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> In this case, defendant has not alleged the existence of an express written agreement providing for the lien. Further, defendant failed to follow the legal procedure for collecting debts owed by obtaining a judgment for the amount owed. No special equitable circumstances exist that would support imposition of an attorneys' charging lien on plaintiff's real property. Plaintiff has not attempted to evade paying for defendant's services. Rather, an ongoing dispute exists between the parties regarding the total fee charged by defendant, and the parties have been unable to resolve it. Defendant's pleadings are insufficient to

> establish that he had the right to assert a lien against plaintiff's property. [*Id*. at 478-479.]

It is clear to us that plaintiff was not entitled to summary disposition under *George*. Cooper did not obtain a judgment for the fees, so circumstance 2 of *George* was not satisfied. Moreover, there were no special equitable circumstances in existence that warranted imposition of the lien. In fact, plaintiff does not even argue as much on appeal. Accordingly, circumstance 3 of *George* was not satisfied. Plaintiff contends, however, that paragraph 13 of the fee agreement between Cooper and defendant was sufficient to satisfy circumstance 1 of *George*. We disagree.

Paragraph 13 of the fee agreement, again, stated:

> ATTORNEYS are given a lien on the claim or cause of action against any sums recovered by way of settlement or judgment for the amounts previously mentioned as their fee. ATTORNEYS shall have general, possessory or retaining CLIENT'S liens, and all special or charging liens known to law.

"[S]ums recovered" were not at issue here, so the first sentence of paragraph 13 was inapplicable. The second sentence is merely a general statement that Cooper would have liens "known to law." Plaintiff contends that this sentence was sufficient to establish, in accordance with circumstance 1 of *George*, that the parties had "an express agreement providing for a lien . . . ." *Id*. at 478. However, we must read this statement from *George* in context. It is clear from context that *George*, in stating that a lien against real estate would be valid if "the parties have an express agreement providing for a lien," *id*., was indicating that the parties must have an express agreement *specifically providing for a lien on real property*. Indeed, *George*, in making its analysis, relied heavily on *Rubel v Brimacombe & Schlecte, PC*, 86 Bankr 81, 83 (ED Mich, 1988). See *George*, *supra* at 478. *George* stated:

> In *Rubel*, the court concluded that although Michigan courts had never directly ruled on the issue, they would follow the majority rule disallowing attorney liens upon real property owned by clients unless there is an express written contract between the parties providing for *such a lien* or unless special equitable circumstances existed. [*Id*. (emphasis added).]

Paragraph 13 of the fee agreement did not constitute an express agreement for a lien upon real property. Accordingly, the lien was not valid and plaintiff therefore was not entitled to summary disposition. We affirm the decision of the circuit court.[1]

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[1] While the circuit court incorrectly analyzed *George* and concluded that all three of the *George* "factors" had to be satisfied in order to establish a valid lien against real property, the court ultimately reached the right result. We "will not reverse a trial court's order if it reached the right result for the wrong reason." *Etefia v Credit Technologies Inc*, 245 Mich App 466, 470; 628 NW2d 577 (2001).

Affirmed and remanded for further proceedings. We do not retain jurisdiction.

/s/ Jane E. Markey
/s/ Patrick M. Meter
/s/ Christopher M. Murray