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STATE OF MICHIGAN
COURT OF APPEALS

WARNER FAMILY TRUST, by PEGGY R.
WARNER, Trustee,

UNPUBLISHED
July 22, 2021

Plaintiff-Appellee,

v

CF BROADCASTING LLC and
MICHAEL D. FLEMING,

No. 354683
Ogemaw Circuit Court
LC No. 16-650221-CK

Defendants,

and

CHARLES A. COBB,

Defendant-Appellant.

Before: BORRELLO, P.J., and SERVITTO and STEPHENS, JJ.

PER CURIAM.

Defendant-appellant, Charles A. Cobb, appeals as of right the order dismissing this action in conjunction with the parties’ settlement agreement. Because Cobb has failed to establish that the trial court committed an error requiring reversal, we affirm.

I. FACTS AND PROCEDURAL HISTORY

Defendant CF Broadcasting, LLC, a limited-liability company owned by Cobb and defendant Michael D. Fleming,¹ purchased a radio station, WBMI 105.5 FM in West Branch, from 105.5fm, LLC, a limited-liability company owned by Peggy Warner, trustee of the Warner Family Trust, for \$360,000, plus interest. In conjunction with the purchase agreement, CF Broadcasting executed a promissory note and a security agreement pledging the station, its FCC license, and

¹ Neither Fleming nor CF Broadcasting, LLC, are party to this appeal.

associated tangible and intangible personal property as collateral, and giving plaintiff the right to immediate possession of the collateral or to appoint a receiver if CF Broadcasting defaulted on the note. CF Broadcasting also executed a mortgage on the real property upon which the station was located with plaintiff as mortgagee, and Cobb and Fleming executed a personal guaranty agreement agreeing to be personally liable to plaintiff for payment of the note if CF Broadcasting defaulted.

Several years after the purchase, CF Broadcasting defaulted by missing five full payments and part of a sixth—for a total arrearage of more than \$19,000—and by failing to make two property-tax payments totaling more than \$1,100. The unpaid principal balance on the note was more than \$229,000. Plaintiff commenced this lawsuit in November 2016, seeking immediate possession of, or appointment of a receiver for, the collateral, as well as to enforce the personal guaranty agreement and foreclose on the mortgage. With the complaint, plaintiff also filed a motion for immediate possession of the collateral. The trial court granted plaintiff's motion on December 14, 2016. The same day, CF Broadcasting filed a bankruptcy petition, and defendants filed a motion for reconsideration of the trial court's order. Two days after entering the order, the trial court vacated it because of the bankruptcy stay.

Because of CF Broadcasting's bankruptcy petition, and one filed later by Cobb in his individual capacity, this case remained stayed in the trial court for a total of nearly three years. After the lifting of the stays, defendants answered plaintiff's complaint, and the trial court appointed a receiver to take possession of the radio station and associated property. The parties later stipulated to entry of an order defining the scope of the receiver's authority. Shortly after that, the parties agreed to settle the case. The settlement provided that plaintiff would take possession of the station and associated real and personal property, and deem the note fully paid, forgoing any right to collect the unpaid amount. Plaintiff also agreed to release any claim it had on certain real property belonging to Fleming. The trial court entered an order to that effect on August 6, 2020, and denied defendants later motion for reconsideration. This appeal followed.

We note that Cobb, a non-lawyer, filed the claim of appeal and three motions in this Court acting in pro per. While Cobb purportedly filed the claim and motions on behalf of CF Broadcasting and Fleming as well as himself, Cobb could only represent himself in this matter. See Const. 1963, art. 1, § 13. MCL 600.916 provides, in part, that “[a] person shall not practice law or engage in the law business . . . and shall not in any manner whatsoever represent or designate himself or herself as an attorney and counselor, attorney at law, or lawyer, unless the person is regularly licensed and authorized to practice law in this state.” MCL 600.901 further provides that “[n]o person is authorized to practice law in this state unless he complies with the requirements of the supreme court with regard thereto.” The practice of law is not limited to the conduct of cases in courts, but also includes “the preparation of pleadings, and other papers incident to actions and special proceedings, and the management of such actions and proceedings on behalf of clients before judges and courts . . .” *Detroit Bar Ass'n v Union Guardian Tr. Co.*, 282 Mich 216, 222; 276 NW 365 (1937). See also, *Shenkman v Bragman*, 261 Mich App 412, 416; 682 NW2d 516 (2004) (a corporation must be represented by an attorney, and a non-lawyer attempting to represent a corporation is engaged in the unauthorized practice of law). As a result, we treat this appeal and the three motions filed by Cobb as pertaining to Cobb only.

II. ANALYSIS

“ ‘In order to appeal, a party must be an aggrieved party,’ ” and thus “ ‘must demonstrate that he or she is affected by the decision of the trial court.’ ” *Garrett v Washington*, 314 Mich App 436, 449-450; 886 NW2d 762 (2016), quoting *Kieta v Thomas M Cooley Law Sch*, 290 Mich App 144, 147; 799 NW2d 579 (2010). A party is not aggrieved, and the issue becomes moot, when this Court cannot rule in a way that would have any practical legal effect on the case. *Garrett*, 314 Mich App at 449. “This Court does not decide moot issues.” *Id.* at 449.

The trial court’s orders vesting possession of the radio station and associated property in plaintiff or the receiver did not adversely affect Cobb, because none of it was his property, and thus he is not an aggrieved party who may pursue this appeal. The property at issue here—the radio station, the real property upon which it is located, the various personal property, and the FCC license—all belonged to CF Broadcasting, LLC, and not to Cobb (or Fleming) personally. A limited-liability company (LLC) is a legal entity, and “[t]he rules respecting the corporate form apply equally to limited liability corporations.” *Hills & Dales Gen Hosp v Pantig*, 295 Mich App 14, 21; 812 NW2d 793 (2011). “A corporation is its own ‘person’ under Michigan law, an entity distinct and separate from its owners, even when a single shareholder holds ownership of the entire corporation.” *Id.* at 20.

Although Cobb has purported to file this appeal pro se as the “spokesperson” for all three defendants, he is not an attorney licensed in Michigan (or apparently anywhere else) and, as previously stated, may not appear “pro se” on behalf of the entity in legal proceedings. *Union Guardian Trust Co*, 282 Mich at 711. Only Cobb, acting pro se, filed the claim of appeal and an appellate brief, and thus only he, and not CF Broadcasting or Fleming, can properly be deemed to have appeared in this appeal.

Not only did the trial court’s orders not adversely affect any of Cobb’s property rights because he did not have any interest in the property, the final order in this case arguably *benefited* Cobb because it provided that plaintiff had agreed to forgo any collection of the unpaid balance of the promissory note that Cobb had personally guaranteed. Because, under the authority of the order, plaintiff now deems the note paid and satisfied, Cobb is no longer potentially personally liable for the \$229,000 due.

Moreover, if Cobb were a proper party to pursue this appeal, the issues he raises do not support reversal of the trial court’s order. Cobb asserts that the trial court acted improperly when it entered its December 2016 order granting plaintiff’s motion for possession of the collateral less than 21 days after plaintiff served defendants with the complaint and motion. But the trial court vacated that order two days later, after learning of CF Broadcasting’s bankruptcy proceedings. Because of CF Broadcasting’s and Cobb’s bankruptcy petitions, the case was stayed for an aggregate of approximately three years, after which defendants answered the complaint and were heard in several motions and hearings that took place throughout the pendency of this action. The trial court entered the final order in this case nearly five years after plaintiff filed the complaint. Cobb’s suggestion that he or the other defendants somehow were not afforded adequate time or opportunity to be heard in this matter entirely lacks merit.

Cobb also asserts that the trial court erred when it appointed a receiver without following procedures set forth in MCR 3.105 or MCL 600.2920. However, MCR 3.105 applies to actions for claim and delivery, and plaintiff did not file an action for claim and delivery. Similarly, MCL 600.2920 provides for appointment of a receiver in conjunction with claims that a defendant unlawfully took or possessed goods or chattel, and plaintiff did not allege that, either. In fact, both claims require a plaintiff to plead and prove that a defendant unlawfully took or possessed the plaintiff's goods or chattel, but this case involved no such issue. Defendants were *lawfully* in possession of the radio station and its property because CF Broadcasting had purchased it. But CF Broadcasting had also pledged the property as collateral under the security agreement, and that agreement gave plaintiff the right to take possession of the collateral upon CF Broadcasting's default on its obligations under the purchase agreement. It is that right that plaintiff sought to enforce with this lawsuit, and thus neither MCR 3.105 nor MCL 600.2920 applied. Accordingly, Cobb's assertion that the trial court erred in not following the procedures set forth by either authority also entirely lacks merit. Given the above, Cobb's three motions filed in this Court are also without merit and are denied.

Affirmed.

/s/ Stephen L. Borrello
/s/ Deborah A. Servitto
/s/ Cynthia Diane Stephens