

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

ANGIE MAZZA

Appellant

IN THE SUPERIOR COURT OF
PENNSYLVANIA

v.

MOUNTAIN VIEW CONDOMINIUM
ASSOCIATION AND HEGARTY
MAINTENANCE

Appellees

No. 755 EDA 2012

Appeal from the Judgment Entered February 3, 2012
In the Court of Common Pleas of Chester County
Civil Division at No(s): 2011-05011

BEFORE: STEVENS, P.J., GANTMAN, J., and LAZARUS, J.

MEMORANDUM BY GANTMAN, J.:

Filed: January 31, 2013

Appellant, Angie Mazza, appeals *pro se* from the judgment entered in the Chester County Court of Common Pleas, granting the motion of Appellees, Mountain View Condominium Association and Hegarty Maintenance, for judgment on the pleadings and dismissing Appellant's complaint with prejudice. We affirm.

The trial court set forth the relevant facts and procedural history of this case as follows.

[Appellant's] action is for personal injuries allegedly sustained in a slip and fall in the parking lot of the Mountain View Condominiums on January 29, 2009. [Appellant] filed her complaint in the Magisterial District Court on February 1, 2011. The Notice of Judgment states that [Appellant's] action against [Appellee] Hegarty Maintenance was withdrawn and her claim against

[Appellee] Mountain View Condominium Association was "dismissed without prejudice" on April 12, 2011. [Appellant] filed a Notice of Appeal with the Court of Common Pleas on May 11, 2011. [Appellant] filed her Complaint and [Appellees] filed an Answer with New Matter raising the statute of limitations, to which [Appellant] replied. [Appellees] filed a Motion for Judgment on the Pleadings based on [Appellant's] failure to timely file her complaint. After [Appellant] filed her answer, we granted [Appellees'] motion.

(Trial Court Opinion, dated April 4, 2012, at 1). On February 3, 2012, the court dismissed Appellant's complaint with prejudice. Appellant filed a motion for reconsideration on February 13, 2012, which the court denied on Monday, March 5, 2012. The same day, Appellant timely filed a notice of appeal. The court ordered Appellant to file a concise statement of errors complained on appeal pursuant to Pa.R.A.P. 1925(b); Appellant timely complied.

Appellant raises three issues for our review:

DID THE [TRIAL] COURT COMMIT ERROR BY GRANTING APPELLEES' MOTION SOLELY ON THE BASIS THE 2 YEAR STATUTE OF LIMITATIONS WAS NOT MET?

DID THE [TRIAL] COURT COMMIT ERROR BY WRONGFULLY CONCLUDING APPELLANT WAS REQUIRED TO FILE A WRIT OF *CERTIORARI* IN ORDER TO PRESERVE APPELLANT'S RIGHTS AND CLAIMS?

BASED ON THE CIRCUMSTANCES OF THIS CASE, CAN THIS COURT APPLY LEGAL REMEDIES OR EQUITABLE PRINCIPLES TO TOLL THE STATUTE OF LIMITATIONS AND REMAND THE CASE FOR ARBITRATION?

(Appellant's Brief at 4).

In her issues combined, Appellant challenges the court's decision to grant Appellees' motion for judgment on the pleadings and dismiss her complaint. Appellant argues she attempted to file her negligence complaint on Monday, January 31, 2011,¹ but the Magisterial District Court turned her away because the complaint was handwritten. Appellant contends there is no rule against handwritten complaints, and the Magisterial District Court was incorrect in refusing to accept her handwritten filing. Appellant argues she sought to correct the procedural error by filing an appeal for a trial *de novo* with the Court of Common Pleas. Appellant concludes the Court of Common Pleas erred in declining to rectify the procedural error and deem her complaint timely filed. We disagree.

The rules governing the form of a complaint require only that the complaint be "made in writing on a form which shall be prescribed by the State Court Administrator" and "signed by the plaintiff or the plaintiff's agent and verified...." Pa.R.C.P.M.D.J. 304. A plaintiff seeking review of a gross irregularity of procedure by the Magisterial District Court must file a writ of *certiorari* with the Court of Common Pleas. Pa.R.C.P.M.D.J. 1009(A); **Gladstone Partners, LP v. Overland Enterprise, Inc.**, 950 A.2d 1011 (Pa.Super. 2008) (stating: "[C]ertiorari connotes a review of the record established in the minor court with an eye to cure defects in procedure and

¹ January 29, 2011, fell on a Saturday. Therefore, Appellant's complaint would have been timely if she had filed it on Monday, January 31, 2011.

legal error"). On the other hand, an appeal *de novo* to the Court of Common Pleas serves a different purpose—it "give[s] a litigant a new trial without reference to the record established in the minor court...." *Id.* "A judgment may not be the subject of both *certiorari* and appeal." Pa.R.C.P.M.D.J. 1015.

After a thorough review of the record, the briefs of the parties, the applicable law, and the well-reasoned opinion of the Honorable Edward Griffith, we conclude Appellant's issues merit no relief. The trial court opinion properly disposes of the questions presented. (*See* Trial Court Opinion, dated April 4, 2012, at 2-3) (finding: **(1)** Appellant filed her complaint on February 1, 2011, one day outside two-year statute of limitations for negligence claims; **(2-3)** Appellant claims she would have filed her complaint on January 31, 2011, but Magisterial District Court improperly refused to accept complaint because it was handwritten; even crediting Appellant's claim as true, proper method to challenge gross procedural error in Magisterial District Court is to file writ of *certiorari* with Court of Common Pleas; Appellant instead chose to file appeal with Court of Common Pleas seeking trial *de novo*; Appellant waived any claim of procedural error by seeking trial *de novo* rather than filing for writ of *certiorari*). Accordingly, we affirm on the basis of the trial court opinion.

Judgment affirmed.