

IN THE COURT OF APPEALS OF TENNESSEE
AT JACKSON

Assigned on Briefs June 1, 2023

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CHARLES HARDIN, JR. v. AMANDA WARF

Appeal from the Circuit Court for Benton County
No. 20-CV-20 J. Brent Bradberry, Judge

No. W2022-01048-COA-R3-CV

This appeal arises from the filing of a detainer warrant in general sessions court. The plaintiff sought to remove the defendant and her mobile home from his real property. The general sessions court granted possession of the real property to the plaintiff but ordered him to pay for the removal of the mobile home. The defendant appealed to the circuit court. The circuit court concluded that the plaintiff was entitled to the relief requested and awarded him possession of his real property. However, contrary to the general sessions court, the circuit court ordered the defendant to remove her mobile home from the plaintiff's real property at her expense. The defendant appeals. We affirm.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed

CARMA DENNIS MCGEE, J., delivered the opinion of the court, in which JOHN W. MCCLARTY and W. NEAL MCBRAYER, JJ., joined.

Robert T. Keeton, III, Huntingdon, Tennessee, for the appellant, Amanda Warf.

Marcus Noles, Camden, Tennessee, for the appellee, Charles Hardin, Jr.

OPINION

I. FACTS & PROCEDURAL HISTORY

The parties, Mr. Charles Hardin, Jr. and Ms. Amanda Warf, agree that the facts are undisputed in this case. Mr. Hardin and Ms. Warf were in a romantic relationship. In October 2015, they agreed to move Ms. Warf's double-wide mobile home to Mr. Hardin's real property and remove Mr. Hardin's single-wide trailer home. They separated sometime afterward. Mr. Hardin requested that Ms. Warf remove her mobile home from his real

property, but she refused.

In April 2020, Mr. Hardin filed a detainer warrant against Ms. Warf in general sessions court seeking to remove Ms. Warf and her mobile home from his real property. He averred that Ms. Warf's initial possession was based on an oral agreement to allow her to move her mobile home onto the property for them to reside in together. However, he explained that they had separated and that he now desired for her "to remove herself and her belongings including the mobile home" from his real property.¹ The general sessions court granted possession of the real property to Mr. Hardin but ordered him to pay for the removal of Ms. Warf's mobile home. Ms. Warf filed an appeal in circuit court.

The parties appeared for a trial in May 2022, and the circuit court heard arguments on Ms. Warf's issue concerning whether a detainer action filed under Tennessee Code Annotated Title 29 Chapter 18 was the proper vehicle to resolve this matter. The circuit court entered an order in June 2022, concluding that Mr. Hardin properly filed his action under Tennessee Code Annotated Title 29 Chapter 18. The parties then agreed for the circuit court to rule on the pleadings, waiving a trial on the remaining issues. In July 2022, the circuit court entered an order concluding that Mr. Hardin was entitled to the relief requested and awarded him possession of his real property. The court specifically found that Mr. Hardin was "both landlord and tenant."² Additionally, the circuit court ordered Ms. Warf to remove her mobile home from Mr. Hardin's real property at her expense. Thereafter, Ms. Warf timely filed an appeal.

II. ISSUES PRESENTED

Ms. Warf presents the following issues for review on appeal, which we have slightly restated:

1. Whether the circuit court erred in finding that Tennessee Code Annotated section 29-18-109 did not apply; and
2. Whether Mr. Hardin was permitted to use a detainer warrant for this type of matter to remove a structure that was jointly occupied and jointly maintained.

For the following reasons, we affirm the decision of the circuit court.

III. STANDARD OF REVIEW

The facts are undisputed and the issues presented for review on appeal involve

¹ Mr. Hardin has not claimed that he has any ownership interest in the subject mobile home. Therefore, it is undisputed in this case that the mobile home is solely owned by Ms. Warf and the issue of ownership of the structure is not before this Court.

² This finding has not been challenged by Ms. Warf on appeal.

questions of law. We review a trial court's decision on issues of law de novo with no presumption of correctness. *Columbia Housing Redevelopment Corp. v. Braden*, 663 S.W.3d 561, 565 (Tenn. Ct. App. 2022); see *Lind v. Beaman Dodge, Inc.*, 356 S.W.3d 889, 895 (Tenn. 2011).

IV. DISCUSSION

A. Unlawful Detainer

This case concerns the right to possession of real property, which is referred to as an unlawful detainer action. *New S. Fed. Sav. Bank v. Pugh*, No. E2009-02150-COA-R3-CV, 2010 WL 4865606, at *4 (Tenn. Ct. App. Nov. 29. 2010). Unlawful detainer arises when the tenant enters by contract, either as “tenant or as assignee of a tenant, or as personal representative of a tenant, or as subtenant, or by collusion with a tenant, and, in either case, willfully or without force, holds over possession from the landlord, or the assignee of the remainder or reversion.” *Johnson v. Hopkins*, 432 S.W.3d 840, 844 (Tenn. 2013) (quoting Tenn. Code Ann. § 29-18-104). “Although actions to recover possession of real property existed at common law[,] the particular action of unlawful detainer resulted from the evolution of the law and did not appear in this State until passage of the first unlawful detainer statute in 1821.” *Newport Hous. Auth. v. Ballard*, 839 S.W.2d 86, 88 (Tenn. 1992) (footnote omitted). “The intent of the 1821 legislative act, in creating the action of unlawful detainer, was to streamline the cumbersome and more formal common law action, such as ejectment, used to determine rightful possession of real property.” *Id.* at 89. An unlawful detainer action also serves as a “legal substitute for personal entry” and was “designed to preserve the peace and good order of society, and to prevent the collisions that are so likely to follow invasions of real estate.” *Matthews v. Crofford*, 129 Tenn. 541, 167 S.W. 695, 698 (1914); see *Davidson v. Phillips*, 17 Tenn. (9 Yer.) 93, 95 (1836) (stating that “if it were left to be struggled for between the parties by force and violence, the peace of the community would not only be destroyed, but in very many instances bloodshed would be the consequence”).

Ms. Warf requests this matter be dismissed as being barred by Tennessee Code Annotated section 29-18-109 because she peacefully enjoyed uninterrupted occupation and quiet possession of the property from October 2015 to April 2020. That statute provides as follows:

The uninterrupted occupation or quiet possession of the premises in controversy by the defendant, for the space of three (3) entire years together, immediately preceding the commencement of the action, is, if the estate of the defendant has not determined within that time, a bar to any proceeding under this chapter.

Tenn. Code Ann. § 29-18-109. Ms. Warf acknowledges that “there is veritable dearth of case law on this statute.” Indeed, there are very few cases which have applied or even referenced in passing the language from this statute and none of them are factually similar to the case before us. *See, e.g., Whitaker v. House*, 213 Tenn. 61, 372 S.W.2d 194, 198 (1963); *Lieberman, Loveman & O’Brien v. Clark*, 114 Tenn. 117, 85 S.W. 258, 260 (1905); *Beaty v. Jones*, 41 Tenn. (1 Cold.) 482, 488 (1860); *Philips v. Sampson*, 39 Tenn. (2 Head) 429, 433-35 (1859); *Beard v. Bricker*, 32 Tenn. (2 Swan) 50, 52 (1852); *Thompson v. Holt*, 28 Tenn. (9 Hum.) 407, 410 (1848); *Turner v. Lumbrick*, 19 Tenn. (Meigs) 7, 14 (1838).

Given the lack of direction in Tennessee case law regarding this statute, we have reviewed decisions from other courts which have construed a similar version of their own statute. *See Lee Med., Inc. v. Beecher*, 312 S.W.3d 515, 535 (Tenn. 2010) (reviewing decisions of other courts construing similar statutes). Missouri has a similar version of the statute, which provides as follows:

The provisions of this chapter shall not extend to any person who has had the uninterrupted occupation or been in quiet possession of any lands or tenements for the space of three whole years together, immediately preceding the filing of the complaint, or who has continued three whole years in the peaceable possession after the time for which the premises were demised or let to him, or those under whom he claims, shall have expired.

Mo. Ann. Stat. § 534.300. In a case before the Missouri Court of Appeals, the defendants made an argument comparable to the one Ms. Warf makes in this appeal. *Brown as Tr. of George E. Heard Revocable Tr., Dated Feb. 24, 2000 v. Barnes*, 641 S.W.3d 241, 249 (Mo. Ct. App. 2021). The Court explained that the statute of limitations clock did not run during a tenancy because such possession was not adverse to the landowner:

[a]t the expiration of a lease, it is the tenant’s duty to surrender the premises, and when his time expires, he becomes an unlawful detainer. The tenant’s uninterrupted possession is “by and with the consent” of the landlord. At the point the landlord-tenant relationship terminates, the tenant’s possession thereafter is adverse, which triggers the running of the three-year period described in § 534.300.

Id. (quoting *Phelps v. Phelps*, 299 S.W.3d 707, 710 (Mo. Ct. App. 2009)). The Court stated that “[s]ection 534.300 is a statute of limitations that does not commence to run until there is an unlawful detainer.” *Id.* (quoting *Phelps*, 299 S.W.3d at 710). As such, it was held that the three-year statute of limitations was not triggered until the defendants refused to vacate and surrender the property. *Id.*

We find that this reasoning from *Brown* and *Phelps* is persuasive. In doing so, we decline to adopt Ms. Warf’s interpretation of our statute because such an interpretation

would produce an illogical result. *See Skarbrevik v. Pers. Representative of Estate of Brown*, No. W2014-00809-COA-R3-CV, 2015 WL 7184664, at *6 (Tenn. Ct. App. Nov. 16, 2015) (holding that to adopt the defendant’s position would be illogical and inconsistent with the liberal construction of the statute). While the record before us is limited, it does indicate that the parties separated sometime between late 2018 and early 2019. Consequently, Mr. Hardin requested that Ms. Warf remove her mobile home from his real property, but she refused. At that point, Ms. Warf’s possession became adverse, which triggered the running of the three-year period described in Tennessee Code Annotated section 29-18-109. Mr. Hardin filed his detainer warrant in general sessions court in April 2020, which fell within the three-year period that commenced sometime in 2018 or 2019. Therefore, we conclude that this matter was not barred by section 29-18-109.

B. Use of Detainer Warrant to Remove Structure

Ms. Warf presented a second issue for review regarding whether Mr. Hardin was permitted to use a detainer warrant for this type of matter to remove a structure that was jointly occupied and jointly maintained. Although she presented this as an issue for review, she failed to develop any separate argument regarding this issue in her appellate brief. The argument section of Ms. Warf’s brief was devoted entirely to her issue regarding section 29-18-109. In the conclusion section of her brief, she simply asserted that “[b]ecause of” Tennessee Code Annotated section 29-18-109, “a Detainer Warrant was not the appropriate legal process for this situation and should have been barred.” Having rejected Ms. Warf’s argument regarding the statute, we necessarily reject the basis for her second issue as well.

V. CONCLUSION

For the aforementioned reasons, we affirm the decision of the circuit court. Costs of this appeal are taxed to the appellant, Amanda Warf, for which execution may issue if necessary.

CARMA DENNIS MCGEE, JUDGE