

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

CENTENNIAL PLAZA III INVESTMENT, L.L.C.,	:	APPEAL NOS. C-170644 C-180452
Plaintiff-Appellant,	:	TRIAL NO. A-1404165
vs.	:	
CENTENNIAL PLAZA I INVESTMENT, L.L.C.,	:	<i>JUDGMENT ENTRY.</i>
Defendant-Appellee.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Plaintiff-appellant Centennial Plaza III Investment, L.L.C., (“Plaza III”) appeals from the judgment of the Hamilton County Court of Common Pleas granting summary judgment for defendant-appellee Centennial Plaza I, L.L.C., (“Plaza I”) on Plaza III’s promissory-estoppel claim and on Plaza I’s breach-of-contract counterclaim.

Plaza III is the owner of real property improved as Centennial III, and Plaza I is the owner of real property improved as Centennial I. Centennial I and III are separate parcels in an office complex called Centennial Plaza that includes an underground garage. Centennial I and III are subject to a “Declaration of Covenants, Conditions, and Restrictions, and Reservation of Easements for Centennial Plaza” (“Declaration”) that recognizes the owners’ exclusive use of the parking spaces in their separate parts of the garage and surface parking lot.

On October 24, 2014, Plaza III was the successful bidder at an on-line auction that offered the parcels as a single-asset property. Hours before the auction, Plaza III and

Plaza I entered into a written agreement providing that if Plaza III was the successful bidder, and Plaza I paid one-third of the purchase price and other expenses, Plaza III would cause Centennial I to be transferred to Plaza I, either directly or indirectly, at the closing for the sale.

After Plaza III successfully bid on the property, but before the closing, the parties exchanged oral promises and writings on a parking easement that Plaza III sought because the parcel it purchased had inadequate parking. Plaza I did not execute the easement but paid the contracted-for purchase price. At closing, the seller transferred Centennial I directly to Plaza I.

The dispute over parking spaces continued after the closing, and Plaza I began to enforce its exclusive right to the parking spaces in its parcel. Plaza III then stopped paying its share of common area maintenance expenses (“CAM charges”). Plaza III filed this lawsuit against Plaza I alleging, among other things, breach of an express agreement to amend the Declaration to provide Plaza III with an easement for more parking spaces, and promissory estoppel, seeking reliance damages. With respect to the promissory-estoppel claim, Plaza III alleged it would not have purchased its parcel absent Plaza I’s promise to give Plaza III more parking spaces. It now claims that it relied on the promise to its detriment when it acquiesced in Plaza I acquiring legal title to the entire Centennial I parcel, rather than a one-third interest in the single asset that was auctioned.

The trial court granted Plaza I’s motion to dismiss the complaint for failure to state a claim upon which relief could be granted because the documents Plaza III relied upon to establish the easement did not satisfy the statute of frauds. This court affirmed the trial court’s judgment dismissing the breach-of-contract claim, but reversed and remanded as to the promissory-estoppel claim. *Centennial Plaza III Investment, L.L.C., v. Centennial Plaza I Investment, L.L.C.* (“*Centennial Plaza III, I*”), 1st Dist. Hamilton No. C-150257, 2016-Ohio-273.

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On remand, Plaza I filed a counterclaim, alleging in part that Plaza III was in breach of contract for failure to pay CAM charges. Plaza I moved for summary judgment on the promissory-estoppel claim and, later, on the breach-of-contract counterclaim. The trial court granted the motions in November 2016 and October 2017 respectively. Plaza III now appeals, raising two assignments of error. We review the grant of summary judgment de novo, applying the standards set forth in Civ.R. 56. *See Comer v. Risko*, 106 Ohio St.3d 185, 2005-Ohio-4559, 833 N.E.2d 712, ¶ 8.

We overrule Plaza III's first assignment of error, contending that summary judgment was erroneously granted on the promissory-estoppel claim. As explained more fully in the trial court's opinion, the October 24 agreement obligated Plaza III to transfer to Plaza I the entire Centennial I parcel with the coveted parking spaces—not just a one-third interest in the single asset that was auctioned—if other conditions were met. Those other conditions were met. Consequently, Plaza III cannot show the requisite reliance to prevail on its promissory-estoppel claim. *Centennial Plaza III, I* at ¶ 26.

We overrule Plaza III's second assignment of error, contending that summary judgment was erroneously granted on Plaza I's breach-of-contract claim for unpaid CAM charges, because Plaza III neither rebutted Plaza I's properly supported motion for summary judgment nor presented any evidence of a prior breach by Plaza I.

Therefore, we affirm the trial court's judgment.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

CUNNINGHAM, P.J., ZAYAS and DETERS, JJ.

To the clerk:

Enter upon the journal of the court on November 2, 2018
per order of the court _____
Presiding Judge