

COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

Sheaffer v. Trone

38 Pa. D. & C.3d 394 (Adams Cnty. C.P. 1985) · Decided November 1, 1985

SUMMARY

The court entered judgment on the pleadings for a real estate broker seeking a commission under an exclusive listing agreement. It held that the agreement did not make the commission contingent on completed conveyance and that the seller’s subsequent agreement with the buyers established their readiness, willingness, and ability to perform despite provisions concerning payment and liquor-license approval. Judgment was entered for the plaintiff in the amount of \$13,200.

CASE DETAILS

COURT	Court of Common Pleas of Adams County, Pennsylvania
WRITING FOR THE COURT	Spicer, P.J.
JURISDICTION	Pennsylvania
DECIDED	November 1, 1985
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for summary judgment based on admissions in the pleadings. Because only the pleadings were involved, the court treated the motion technically as one for judgment on the pleadings under Pennsylvania Rule of Civil Procedure 1034.
STANDARD OF REVIEW	Judgment on the pleadings was appropriate because the pleadings presented no factual issues and the dispute concerned the interpretation of two written agreements.
PRECEDENTIAL VALUE	Published Pennsylvania Court of Common Pleas decision; persuasive and locally precedential value may be limited outside the issuing court.
PARTIES	Plaintiff, a real estate broker v. Richard C. Troné

TOPICS

- contracts
- real estate
- motion for judgment on the pleadings
- commercial litigation
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the listing agreement made the broker's right to a commission contingent upon final sale and conveyance rather than upon the seller's execution of an agreement of sale.
2. Whether the February 3, 1984, agreement permitted defendant to contest the buyers' readiness, willingness, and ability to perform based on its provisions concerning buyer performance and liquor-license approval.

HOLDINGS

1. The listing agreement did not depart from the general rule that a broker earns a commission upon producing a ready, willing, and able buyer who enters into an agreement of sale. The use of the term "consummated" did not make settlement or conveyance a precondition to earning the commission.
2. The February 3, 1984, agreement estopped defendant from asserting that the buyers were unable to perform. Its provisions concerning buyer performance were not contingencies, and the liquor-license provision did not make the transaction conditional in a manner defeating plaintiff's right to a commission.

KEY QUOTATIONS

"The general rule is that a broker earns his commission upon producing a ready, willing and able buyer."
(397)

"We rule that the February agreement estops defendant from asserting that buyers were unable to perform."
(399)

FACTUAL BACKGROUND

Plaintiff, a real estate broker, held an exclusive listing agreement providing for a commission if the property was sold by the owner during the listing period, regardless of the person to whom or manner in which the sale was consummated. Plaintiff produced buyers who submitted a written proposal, but defendant did not sign that proposal and instead entered into a different agreement with the same buyers on February 3, 1984. The February agreement concerned the sale and management of a bar and lounge and included provisions concerning buyer performance and delivery of a Pennsylvania restaurant and liquor license, subject to Pennsylvania Liquor Control Board approval.

PROCEDURAL HISTORY

A real estate broker sued Richard C. Troné for a \$13,200 commission under an exclusive listing agreement. After defendant admitted executing the listing agreement and a subsequent agreement with the buyers procured by plaintiff, plaintiff sought judgment on the pleadings. The court found no factual issues and entered judgment for plaintiff.

DISPOSITION

other

CASES CITED

- Shumaker v. Lear, 235 Pa. Super. 509, 345 A.2d 249 (1975)
- Zitzelberger v. Salvatore, 312 Pa. 402, 458 A.2d 1021 (1983)
- Lear, 235 Pa. Super. at 513
- Sork v. Rand, 422 Pa. 512, 222 A.2d 890 (1966)
- Filsam Corp. v. Dyer, 422 F. Supp. 1126 (1976)
- Watt v. East End Car Wash, 28 Pa. D. & C.3d 208 (1982)

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