

STATE OF MICHIGAN
SIXTEENTH JUDICIAL CIRCUIT COURT

EPC COMMERCIAL II LLC,

Plaintiff,

Case No. 2015-273-CB

vs.

TOWN CENTER FLATS, LLC,
VICENT DILORENZO and
ANGELA TINERVIA,

Defendants.

OPINION AND ORDER

Defendant Town Center Flats, LLC ("TCF") has filed a motion for reconsideration of the Court's August 7, 2017 Opinion and Order.

In the interests of judicial economy the factual and procedural statements set forth in the Court's August 7, 2017 Opinion and Order are herein incorporated.

I. Standard of Review

Motions for reconsideration must be filed within 21 days of the challenged decision. MCR 2.119(F)(1). The moving party must demonstrate a palpable error by which the Court and the parties have been misled and show that a different disposition of the motion must result from correction of the error. MCR 2.119(F)(3). A motion for reconsideration which merely presents the same issue ruled upon by the Court, either expressly or by reasonable implication, will not be granted. *Id.* The purpose of MCR 2.119(F)(3) is to allow a trial court to immediately correct any obvious mistakes it may have made in ruling on a motion, which would otherwise be subject to correction on appeal but at a much

greater expense to the parties. *Bers v Bers*, 161 Mich App 457, 462; 411 NW2d 732 (1987). The grant or denial of a motion for reconsideration is a matter within the discretion of the trial court. *Cole v Ladbroke Racing Michigan, Inc*, 241 Mich App 1, 6-7; 614 NW2d 169 (2000).

II. Law and Analysis

In its motion, TCF does not identify any palpable error in this Court's August 7, 2017 Opinion and Order. Rather, TCF attacks this Court's July 5, 2017 Opinion and Order granting Plaintiff's motion for appointment of a receiver ("Receivership Order"), as well as the assignment of rents entered by the Sixth Circuit in *Town Center Flats, LLC v ECP Commercial II, LLC* (In re Town Ctr Flats, LLC), 855 F3d 721, 722 (CA 6 2017). However, well over 21 day have elapsed since entry of the Receivership Order and this Court has no authority to alter the Sixth Circuit's Order. As a result, TCF's motion is untimely and improper to the extent that it seek to have this Court amend, modify, or vacate those Orders. Consequently, TCF's motion must be denied.

III. Conclusion

Based on the foregoing, TCF's motion for reconsideration of the Court's August 7, 2017 Opinion and Order is DENIED. Pursuant to MCR 2.602(A)(3), the Court states this Opinion and Order neither resolves the last pending claim nor closes the case.

IT IS SO ORDERED.

Date: SEP 14 2017

Kathryn A. Viviano
Hon. Kathryn A. Viviano, Circuit Court Judge