

STATE OF MICHIGAN  
SIXTEENTH JUDICIAL CIRCUIT COURT

ILLIRIA, INC.,

Plaintiff/Counter-Defendant,

vs.

Case No. 2015-2888-CB

PINEBROOK PLAZA, LLC,  
KANAAN FAMILY TRUST and  
MIKHAIL PLAZA, LLC,

Defendants,

and

MIKHAIL PLAZA, LLC,

Counter-Plaintiff,

vs.

ILLIRIA, INC,

Counter-Defendant,

and

MIKHAIL PLAZA, LLC,

Cross-Plaintiff,

vs.

PINEBROOK PLAZA, LLC and  
KANAAN FAMILY TRUST,

Cross-Defendant,

and

MIKHAIL PLAZA, LLC,

Third-Party Plaintiff,

vs.

TITLE CONNECT, LLC and  
FIRST AMERICAN TITLE COMPANY,

Third-Party Defendants.

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OPINION AND ORDER

Plaintiff/Counter-Defendant Illiria, Inc. ("Plaintiff") has filed a motion for reconsideration of the Court's October 10, 2017 Order denying its motion to enforce stay pending appeal.

I. Facts and Procedural History

On February 18, 2010, Plaintiff and Defendant Pinebrook Plaza, LLC ("Defendant Pine") entered into a lease and addendum ("Lease") for a portion of the premises located at 23800 Schoenherr, Sterling Heights, MI ("Subject Property"). (See Defendant Mikhail's Exhibit A.) The Lease had an initial term of 60 months, thereby making it set to expire on April 30, 2014. (Id.) However, the parties to the Lease executed an "Addendum/Rider to Lease" on the same day, which extended the term of the Lease until February 18, 2015. (See Defendant Mikhail's Exhibit B.) In addition, the addendum to the Lease also includes the following right of first refusal:

[Plaintiff] shall be entitled to a right of first refusal should [Defendant Pine] decide to sell the premises. [Plaintiff] shall be permitted reasonable notice and a reasonable opportunity to respond to such notice, without unreasonably hindering or delaying [Defendant Pine].

(Id.)

On August 6, 2015, Defendant Mikhail purchased the entire premises, including the Subject Property. Defendant Mikhail thereafter initiated eviction proceedings

against Plaintiff.

On August 17, 2016, Plaintiff filed its complaint in this matter ("Complaint"). The Complaint contains claims for: Count I- Declaratory Relief against Defendant Mikhail, Count II- Breach of Contract against Defendant Pinebrook, Count III- Specific Performance against all Defendants, Count IV- Tortious Interference with a Contractual or Advantageous Business Relationship against all Defendants, and Count V- Anticipatory Repudiation against Defendant Mikhail.

On November 22, 2016, Plaintiff filed its instant motion for summary disposition of Count III of the Complaint. On December 13, 2016, Defendant Mikhail filed its response to the instant motion. Plaintiff subsequently filed a reply brief in support of its motion. On January 17, 2017, the Court held a hearing in connection with the motion and took the matter under advisement.

On March 2, 2017, the Court entered an Opinion and Order denying Plaintiff's motion for summary disposition of Count III and granting Defendant Mikhail's motion for summary disposition of Count III. Plaintiff's subsequent motion for reconsideration of the March 2, 2017 Opinion and Order was denied.

On April 27, 2017, Plaintiff filed a claim of appeal of this Court's above-referenced decisions. On May 16, 2017, the Court entered an Order which was stipulated by the parties, providing the following, in part:

IT IS HEREBY ORDERED that, pending the filing and resolution on appeal of this Court's March 2, 2017 order before the Michigan Court of Appeals by Plaintiff, Plaintiff Illiria, Inc., may maintain possession of the premises at Pinebrook Plaza, subject to monthly rent at the rate of \$3,800.00, beginning June 1, 2017 until the resolution of the appeal on the merits by the appellate courts. The terms of the September 21, 2017 order are otherwise incorporated by referenced into this order with the

exception that notice of any default in payment shall be sent to Plaintiff directly at the rental premises.

("Stay Order").

On September 12, 2017, Plaintiff filed a motion to enforce the Stay Order. On October 10, 2017, the Court held a hearing in connection with the motion and entered an Order denying the motion. On October 31, 2017, Plaintiff filed its instant motion for reconsideration of the Court's October 10, 2017 Order.

## II. 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 Ladbrooke Racing Michigan, Inc*, 241 Mich App 1, 6-7; 614 NW2d 169 (2000).

## III. Arguments and Analysis

In its motion, Plaintiff once again alleges that Defendant Mikhail has failed to maintain the parking lot of the Subject Property, and that such failures constituted a violation of the Stay Order. Specifically, Plaintiff avers that the Stay Order incorporates

the September 21, 2015 Order, which it argues required the parties to continue to comply with the terms of the Lease. While it is undisputed that the Stay Order incorporated the September 21, 2015 Order, that Order makes no reference to the Lease. Rather, the September 21, 2015 Order: (1) precluded Defendant Mikhail from evicting Plaintiff so long as Plaintiff paid \$2,500.00 in monthly rent, (2) granted Plaintiff a three day grace period for late rent; (3) allowed Defendant Mikhail to initiate eviction proceedings if late rent was not paid within five days of sending a notice of default to Plaintiff; (4) provided that the rents paid would be credited against the purchase price if Plaintiff's appeal is successful; and (5) that the intent of the Order was to preserve the status quo. Nowhere in the September 21, 2015 Order or the Stay Order is Defendant Mikhail required to maintain the parking lot of the Subject Property. Furthermore, the parties agreed to maintain the status quo. Accordingly, Defendant Mikhail's refusal to fix the parking lot does not amount to a violation of the Stay Order. As a result, Plaintiff's motion to enforce the stay order is properly denied.

In addition, Plaintiff argues, in its supplement, that Defendant Mikhail has failed to pay certain property taxes, thereby putting the Subject Property at risk of foreclosure. However, Defendant Mikhail has provided evidence that the taxes in question have since been paid, thereby alleviating the risk of foreclosure. (See Exhibit A to Defendant Mikhail's Supplement.) By comparison, Plaintiff has failed to present any evidence that there are any outstanding tax bills owed. As a result, Plaintiff has failed to establish its position or to prove that any ongoing tax bill dispute would form the basis for additional relief in this case.

III. Conclusion

Based upon the reasons set forth above, Plaintiff's motion for reconsideration of the Court's October 10, 2017 Order is DENIED. This matter remains CLOSED. See MCR 2.602(A)(3).

IT IS SO ORDERED.

Date: JAN 17 2018

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