

SUPERIOR COURT
OF THE
STATE OF DELAWARE

T. HENLEY GRAVES
RESIDENT JUDGE

SUSSEX COUNTY COURTHOUSE
ONE THE CIRCLE, SUITE 2
GEORGETOWN, DE 19947

January 29, 2008

Christina Paoli
600 Third Street
Truvale Acres
Rehoboth Beach, DE 19971

Dean A. Campbell, Esquire
Law Office of Dean A. Campbell, LLC
108 North Bedford Street
P.O. Box 568
Georgetown, DE 19947

**RE: Christina Paoli v. Bill Glenn d/b/a Up Country Mobile Home Park;
C. A. No. 07A-02-001 THG**

Date Submitted: December 10, 2007

Dear Ms. Paoli and Mr. Campbell:

This is the Court's decision concerning the appeal from the Court of Common Pleas' judgment entered in favor of William Glenn. For the reasons stated herein, the judgment below is affirmed.

Factual and Procedural Background

This case has a long and tortured history. Christina Paoli ("Ms. Paoli") initiated this case against William Glenn ("Mr. Glenn") in the Justice of the Peace Court. Following a decision in that court, Ms. Paoli appealed to the Court of Common Pleas in April of 2003. On January 26, 2007, following a trial *de novo*, the court below entered judgment in favor of Mr. Glenn. Ms. Paoli appealed that decision to this Court in February of 2007. On December 10, 2007, Ms. Paoli filed the final Brief in this case.¹

¹ Briefing was delayed due to Ms. Paoli's need for continuances in the filing of her Briefs.

Discussion

Standard of Review

The standard and scope of the Court's review of an appeal from the Court of Common Pleas is to “correct errors of law and to review the factual findings of the court below to determine if they are sufficiently supported by the record and are the product of an orderly and logical deductive process.” *State Farm Mut. Auto. Ins. Co. v. Dann*, 794 A.2d 42, 45 (Del. Super. 2002) (internal quotation marks and citation omitted). The Court will review any questions of law presented *de novo*. *Id.*

Merits

Ms. Paoli identifies seven issues in her opening brief. The Opening Brief filed by Ms. Paoli is a confusing document. In it, Ms. Paoli rambles and complains about the trial court’s decision in this case, but also takes issue with other matters concerning previous disputes with Mr. Glenn and new cases with Mr. Glenn that have arisen after the Court of Common Pleas trial. Ms. Paoli argues that the judge below erred, but admits she did not raise many of her present arguments to the trial court. Ms. Paoli has failed to target issues and logically argue her position. Nevertheless, I shall attempt to address what I have determined to be the focus of her complaints, knowing well that this decision probably will not be the end of this litigation.

At the outset, Ms. Paoli argues she was not properly served in the Justice of the Peace Court. My review of the Court of Common Pleas file indicates that any issue concerning service on Ms. Paoli was not raised in the Court of Common Pleas prior to trial or during trial. Arguments that are not raised in the trial court ordinarily cannot be raised for the first time on appeal. *See Wilmington Trust Co. v. Conner*, 415 A.2d 773, 781 (Del. 1980). Accordingly, I will not consider this issue.

Ms. Paoli also argues that the Court below erred when it permitted documents to be introduced by Mr. Glenn in light of the fact that those documents had not been included in the Pretrial Stipulation. The lower court's decision to admit or exclude evidence is reviewed for abuse of discretion. *See Spencer v. Wal-Mart Stores East, LP*, 930 A.2d 881, 886 (Del. 2007).

Judicial discretion is the exercise of judgment directed by conscience and reason, and when a court has not exceeded the bounds of reason in view of the circumstances and has not so ignored recognized rules of law or practice so as to produce injustice, its legal discretion has not been abused. To find an abuse of discretion, there must be a showing that the trial court acted in an arbitrary and capricious manner.

Id. at 886-87.

Although Ms. Paoli is correct in noting that the admitted documents had not been included in the Pretrial Stipulation, the trial court did not err in permitting their introduction because Ms. Paoli was not prejudiced by their admission. Indeed, both parties introduced documents that were not included in the Pretrial Stipulation over the objection of their opponent. I also note that the Court below took a recess to permit counsel for Ms. Paoli to review the documents with her. Finally, the trial court determined that the documents would be admitted because of the history of the case, i.e., the parties had been in the Justice of the Peace Court and the documents were familiar to both of them and therefore there was no surprise or prejudice. For all of these reasons, I cannot conclude that the trial court acted in an arbitrary and capricious manner and I affirm the lower court's decision to admit the documents.

Ms. Paoli next complains that the judge below erred when he determined that she was not a tenant of the Up Country Mobile Home Park. Based upon the review of the transcript, it appears that Mr. Glenn had entered into a landlord/tenant relationship with an individual residing in his mobile home park. That person subsequently passed away. Later, Ms. Paoli made a payment on behalf of the estate. Ms. Paoli assumed that her making payment on behalf of the deceased tenant

rendered her a tenant in her own right. The Court below determined that Ms. Paoli, by making a payment on behalf of the estate, did not become a tenant in the Up Country Mobile Home Park. While Ms. Paoli disagrees with the judge's decision, she makes no logical legal argument as to why she should be considered a tenant. She has not established that the payment of rent by a third party on behalf of a lawful tenant transforms that third party into being a lawful tenant. Thus, I affirm the lower court's ruling that Ms. Paoli was not lawful tenant.

Finally, Ms. Paoli argues that she should have a new trial because of newly discovered evidence of which she has learned through subsequent litigation. An appeal on the record is an improper procedural vehicle to argue newly discovered evidence as this Court must focus on the record below. *See C.C.P. Civil Rule 60(b)*.

In summary, the majority of Ms. Paoli's arguments involve long-standing grievances with Mr. Glenn and his attorney. She raises facts that are not at issue in this matter and argues matters of newly discovered evidence. I have attempted to distill her arguments to those that are appropriately considered on an appeal on the record, and I have ruled against Ms. Paoli's position.

Conclusion

For the reasons set forth above, the trial court's decision is AFFIRMED.

Yours very truly,

T. Henley Graves

cc: Prothonotary
Court of Common Pleas, Clerks' Office
The Honorable Kenneth S. Clark, Jr.