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This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-3595-21

500 PARK AVENUE E.O., INC.,

Plaintiff-Respondent,

v.

CORTNEY WILLIAMS,

Defendant-Appellant.

Submitted September 18, 2023 – Decided October 16, 2023

Before Judges Natali and Puglisi.

On appeal from the Superior Court of New Jersey, Law
Division, Essex County, Docket No. L-5142-20.

Cortney Williams, appellant pro se.

Mitchell H. Berger, attorney for respondent.

PER CURIAM

Defendant Cortney Williams appeals from a June 1, 2022 order granting judgment in the amount of \$46,143.40, plus attorney's fees in the amount of \$9,206.68, in favor of plaintiff 500 Park Avenue E.O., Inc. We affirm.

Plaintiff was an incorporated non-profit cooperative association (co-op) that managed the apartment building in East Orange where defendant resided. The co-op was run by a voluntary board elected by the residents of the building. The residents were issued stock certificates proportionate to the value of their respective apartments, and were required to pay monthly assessment dues to cover the oil, maintenance and other expenses for the building, along with any special assessments approved by the board. Defendant received a stock certificate worth thirty-six shares and paid her required assessments from March 2002 through January 2015, at which time she ceased payments.

According to the co-op's bylaws, if a resident failed to pay the monthly assessments, the co-op had "the right to institute legal proceedings to obtain possession of both stock certificate and the allocated apartment. In such case, the delinquent stockholder will be liable for all court cost and reasonable attorney's fees, as well as all delinquent charges, with interest."

On July 31, 2020, plaintiff filed a verified complaint seeking possession of defendant's stock certificate, possession of the apartment, judgment in the amount of \$34,263.30 for unpaid monthly assessments and fees, a warrant of removal or writ of possession, unspecified compensatory damages, counsel fees and costs. Defendant's answer did not dispute the monies owed but appeared to

challenge the co-op's authority to bring the suit. Plaintiff filed a motion to dismiss defendant's answer. After hearing argument, the trial court allowed ninety days for defendant to seek discovery on the issue, but she did not thereafter propound any discovery requests. The court also permitted plaintiff to ratify its actions in filing the complaint, and on May 9, 2021, the board passed a resolution ratifying the continuation of the lawsuit against defendant.

The court then conducted a non-jury trial. Plaintiff's sole witness was Dale Chavis, the president of the Board from 2015 to 2018, vice president in 2019, and again president in 2020 to 2021. He testified defendant's outstanding balance owed in association dues, special assessments and late fees totaled \$46,143.40. He further explained defendant was notified of the outstanding arrearages either by hand delivery from a board member or a notice under her door.¹

On cross-examination, Chavis acknowledged some irregularities in the board's compliance with its bylaws. For instance, the board was required to hold its annual meeting in November, and did so "the majority of the time." However,

¹ Although the building was sold in January 2022 and the co-op was dissolved, Chavis testified that individual board members had advanced the board funds it was lacking, and the court's award would reimburse those former board members.

there were instances it was unable to conduct the hearing in November because of weather or lack of a quorum and held the meeting on a different date. Chavis stated residents were notified of board meetings by postings in the common areas and a notice slipped under their apartment door; later, the board sent certain notices by certified mail.

Defendant challenged the board's recordkeeping and procedures for elections, which most recently were not conducted anonymously as required by the bylaws. She also established a particular resident leased two apartments, which the bylaws prohibited.

The court found Chavis's testimony credible and the arrearages claimed by the board to be supported by the record. The court rejected defendant's argument that she could not pay her monthly assessments because the board was not properly constituted. Although the court acknowledged the board's occasional non-compliance with its bylaws, it found these lapses did not void defendant's obligation to pay the assessments or the board's authority to collect the debt owed to it. Accordingly, the court entered an order for judgment in the amount of \$46,143.40 plus attorney's fees in the amount of \$9,206.68, for a total of \$55,350.08. This appeal followed.

Defendant raises the following issues for our consideration:

POINT 1

THE TRIAL COURT ERRED WHEN IT RELIED ON A CORPORATE RESOLUTION OF 500 PARK AVENUE E.O., INC. TO PROVIDE APPROVAL OF THE LITIGATION AND RATIFY THE PRIOR ACTS OF THE LITIGATION'S INITIAL AUTHORIZER.

POINT 2

THE TRIAL COURT ERRED WHEN IT STATED IN ITS DECISION THAT AN UNSIGNED, UNEXECUTED PROPRIETARY LEASE WAS SIGNED BY THE DEFENDANT.

POINT 3

THE TRIAL COURT ABUSED ITS DISCRETION IN USING AS A BASIS FOR THEIR DETERMINATION THE ORAL TESTIMONY OF DALE CHAVIS IN REGARD TO THE ALLEGED MONIES OWED.

Appellate courts apply a deferential standard in reviewing factual findings by a judge. Balducci v. Cige, 240 N.J. 574, 595 (2020); State v. McNeil-Thomas, 238 N.J. 256, 271 (2019). In an appeal from a non-jury trial, appellate courts "give deference to the trial court that heard the witnesses, sifted the competing evidence, and made reasoned conclusions." Gripenburg v. Twp. of Ocean, 220 N.J. 239, 254 (2015). Deference is given to credibility findings. State v. Hubbard, 222 N.J. 249, 264 (2015). "Appellate courts owe deference to the trial court's credibility determinations as well because it has 'a better

perspective than a reviewing court in evaluating the veracity of a witness.'" C.R. v. M.T., 248 N.J. 428, 440 (2021) (quoting Gnall v. Gnall, 222 N.J. 414, 428 (2015)). "Reviewing appellate courts should 'not disturb the factual findings and legal conclusions of the trial judge' unless convinced that those findings and conclusions were 'so manifestly unsupported by or inconsistent with the competent, relevant and reasonably credible evidence as to offend the interests of justice.'" Gripenburg, 220 N.J. at 254 (quoting Rova Farms Resort, Inc. v. Invs. Ins. Co. of Am., 65 N.J. 474, 484 (1974)).

Here, the trial court found plaintiff's witness to be credible. Chavis served as president of the co-op for years and had first-hand knowledge of the matter about which he testified. He candidly acknowledged the board's occasional non-compliance with its bylaws, but the court found these issues had no bearing on the merits of the board's claim for the monies owed to it. Based on the documents and testimony, the court correctly granted judgment to the board and awarded attorney's fees pursuant to the terms of the proprietary lease. Applying the governing standards of review, we discern no reason to disturb the court's well-reasoned decision.

To the extent we have not expressly addressed any issues raised by defendant, it is because they lack sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



CLERK OF THE APPELLATE DIVISION