

STATE OF MICHIGAN
COURT OF APPEALS

ROBERT ASHER and LYNDA ASHER,

Plaintiffs-Appellants,

v

VIVIAN VAIR,

Defendant-Appellee.

UNPUBLISHED

June 5, 1998

No. 200748

Kalamazoo Circuit Court

LC No. 95-000482 CH

Before: Sawyer, P.J., and Kelly and Smolenski, JJ.

MEMORANDUM.

Plaintiffs appeal from a judgment in favor of defendant in this action arising out of a real estate transaction. We affirm.

Plaintiffs purchased on land contract a residential property that defendant had owned as a rental property. Plaintiffs occupied the house themselves. After moving into the home, they noticed a number of alleged defects, including problems with the heating system and a cockroach infestation. While owned by defendant, the property had been cited for a number of violations by the housing inspector. However, those violations had been cured to the city's satisfaction before the sale. Plaintiffs, intending to use the house as a rental property themselves after purchasing a new home, discovered the past housing violations. At that point, they decided not to consummate the land contract, filing the instant action seeking rescission of the land contract; defendant counterclaimed for specific performance. Following a bench trial, the trial court entered a judgment in favor of defendant.

Plaintiffs argue on appeal that the trial court erred in granting specific performance to defendant, in concluding that plaintiffs had no claim under the Seller Disclosure Act, MCL 565.951 *et seq.*; MSA 26.1286(51) *et seq.*, in holding that defendant had marketable title, and in setting aside the default entered against defendant for filing her answer one day late.

In ruling on this matter, the trial court filed a well-reasoned and detailed opinion. After considering that opinion, the record below, and the parties arguments, we are not persuaded either that the trial court erred or that we can improve upon the trial court's lengthy opinion. Accordingly, we affirm for the reasons stated in the trial court's decision.¹

Affirmed. Defendant may tax costs.

/s/ David H. Sawyer

/s/ Michael J. Kelly

/s/ Michael R. Smolenski

¹ We do briefly note that not only did plaintiffs purchase the property “as is”, they could have discovered the past housing violations at any time prior to the purchase, they could have insisted upon receiving a seller’s disclosure notice before the closing, and that defendant’s late answer is not so egregious as to warrant setting aside the trial court’s determination of the issue.