

Court of Appeals, State of Michigan

ORDER

Jode Investments LLC v Burning Tree Properties LLC

Pat M. Donofrio
Presiding Judge

Docket No. 310957

Kathleen Jansen

LC No. 2011-000291-CZ

Deborah A. Servitto
Judges

The Court orders that the motion to dismiss pursuant to MCR 7.211(C)(2) is DENIED.

With regard to plaintiff's argument that the appeal should be dismissed because defendants have not yet posted an appeal bond, we note that the Supreme Court has held that "[t]he filing of an appeal bond is required to secure a stay of proceedings to enforce the judgment during the appeal, [but the filing of an appeal bond] is not a condition of the right to appeal." *Enton v Winiemko*, 434 Mich 904, 904; 453 NW2d 680 (1990) (citations omitted). Accordingly, the proper course is for plaintiffs to pursue relief in the lower court. The trial court has authority to lift any stay on execution that was premised on the timely posting of the bond. MCR 7.209; MCR 7.208.

With regard to plaintiff's standing argument, we are not equipped to address this argument without the benefit of full briefing and the full lower court record.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

OCT 17 2012

Date


Chief Clerk