

STATE OF MICHIGAN
COURT OF APPEALS

KARL TROPF and CATHERINE TROPF,

Plaintiffs-Appellants,

v

HOLZMAN & HOLZMAN and CHARLES J.
HOLZMAN,

Defendants-Appellees.

UNPUBLISHED

March 11, 2003

No. 236493

Oakland Circuit Court

LC No. 00-021267-CZ

Before: Meter, P.J., and Jansen and Talbot, JJ.

MEMORANDUM.

Plaintiffs appeal as of right from an order dismissing their case. We reverse and remand for further proceedings.

Plaintiffs argue that the trial court erred in granting defendants' motion for summary disposition and dismissing their case. We review de novo a trial court's grant of summary disposition. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998).

A federal district court had enjoined plaintiffs from filing any claim in state court relating to a set of complicated real estate transactions in the 1980s and early 1990s in Michigan unless plaintiffs first posted a bond or cash. Plaintiffs failed to post a bond or cash with regard to the instant state action, so the circuit court entered an order dismissing the case.

At the time the trial court dismissed the case, plaintiffs had filed an appeal with the United States Sixth Circuit Court of Appeals arguing that the federal district court erred in issuing the injunction that resulted in the dismissal of the instant case. In its order of dismissal, the state trial court indicated that plaintiffs would be free to seek reinstatement of their claims against defendants in the event that the federal district court's injunction was overturned on appeal.

The sixth circuit did, in fact, overturn the federal district court's injunction. *Tropf v Fidelity National Title Insurance Co*, 289 F3d 929, 943 (CA 6 2002). Therefore, we reverse the trial court's dismissal of plaintiffs' case and remand for further proceedings.

Reversed and remanded for further proceedings. We do not retain jurisdiction.

/s/ Patrick M. Meter

/s/ Kathleen Jansen

/s/ Michael J. Talbot