

STATE OF MICHIGAN
COURT OF APPEALS

ROBERT P. THOMAS,

Plaintiff-Appellant,

v

ROBERT ALLEN GUTOWSKI and VERA
RUTH GUTOWSKI,

Defendants-Appellees.

UNPUBLISHED

December 20, 2002

No. 233427

Macomb Circuit Court

LC No. 2001-000168-CZ

Before: Fitzgerald, P.J., and Wilder and Cooper, JJ.

PER CURIAM.

In this landlord-tenant dispute, plaintiff appeals as of right the circuit court's orders denying his motion to remove summary proceedings to the circuit court and granting defendants' motion for summary disposition under MCR 2.116(C)(4). We affirm.

The present controversy concerns whether the circuit court had jurisdiction to resolve plaintiff's complaint or whether jurisdiction was proper with the district court. Plaintiff maintains that the circuit court erroneously granted summary disposition when he filed an action in the circuit court before defendants filed their claim in the district court. He further asserts that his other claims for relief were not barred by the district court's judgment in summary proceedings. We disagree.

A trial court's grant or denial of summary disposition is reviewed de novo on appeal. *Speik v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). Similarly, jurisdictional questions under MCR 2.116(C)(4) are reviewed de novo as questions of law. *Travelers Ins Co v Detroit Edison Co*, 465 Mich 185, 205; 631 NW2d 733 (2001). "When reviewing a motion under MCR 2.116(C)(4), this Court must determine whether the pleadings demonstrate that the defendant was entitled to judgment as a matter of law or whether the affidavits and other proofs show there was no genuine issue of material fact." *Jones v Slick*, 242 Mich App 715, 718; 619 NW2d 733 (2000).

Pursuant to MCL 600.8301, district courts have jurisdiction over all civil actions where the amount in controversy does not exceed \$25,000. District courts also have *original*

jurisdiction¹ over actions arising under Chapter 57 of the Revised Judicature Act, MCL 600.5701 *et seq.*, and specifically summary proceedings by a landlord to recover possession of realty. MCL 600.5704; see also *Flynn v Korneffel*, 451 Mich 186, 196, n 22; 597 NW2d 249 (1996). Conversely, circuit courts are courts of general jurisdiction with original jurisdiction over all civil claims and remedies “except where exclusive jurisdiction is given by the constitution or statute to some other court or where circuit courts are denied jurisdiction by the constitution or statutes of this state.” MCL 600.605; see also Const 1963, art 6 § 13; MCL 600.601.

A landlord’s right to recovery of possession of realty is governed by MCL 600.5701 *et seq.* Thus, an action to recover possession is properly brought in the district court because of its statutory grant of original jurisdiction. MCL 600.5704; *Flynn, supra* at 196, n 22. Accordingly, plaintiff’s attempt to remove the summary proceeding action to the circuit court was properly denied because the district court had original jurisdiction.

However, plaintiff further contends that jurisdiction was properly with the circuit court under MCL 600.2918 for interference with his possessory interest in the property. According to MCL 600.2918(4), any tenant whose possessory interest is *unlawfully* interfered with may bring a claim for injunctive relief in the appropriate circuit court. We find that the term “unlawfully” is instructive in this case. Under MCL 600.2918(3)(a) interference is not unlawful if the lessor acted pursuant to a court order. In the instant case, plaintiff was evicted pursuant to a court order and thus the circuit court could not acquire jurisdiction under this statute.

Plaintiff’s mere invocation of equitable defenses and counter-claims in the circuit court were also insufficient to divest the district court of jurisdiction. A district court may grant certain injunctive relief that is ancillary to the summary proceedings. See MCR 4.201(H)(1) and (K)(2). Likewise, removal was unnecessary where plaintiff sought to raise additional claims or counter-claims because these could have been brought in the district court.² MCR 4.201(G); MCL 600.5739; see also *Ames v Maxson*, 157 Mich App 75, 79; 403 NW2d 501 (1987).

This lack of jurisdiction is fatal to plaintiff’s remaining challenges. Absent jurisdiction, a court has no authority to hear or determine the case; thus, the lower court was unable to reach the merits of plaintiff’s counter motion. *McCleese v Todd*, 232 Mich App 623, 628; 591 NW2d 375 (1998). Accordingly, summary disposition in defendants’ favor was appropriate.

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Kurtis T. Wilder
/s/ Jessica R. Cooper

¹ Original jurisdiction has been defined as “[a] court’s power to hear and decide a matter before any other court can review the matter.” Black’s Law Dictionary (7th ed).

² We note that it is not apparent from plaintiff’s complaint that the relief requested exceeded the jurisdictional limit for bringing these claims in the district court. MCL 600.8301; see also *Etefia v Credit Tech, Inc.*, 245 Mich App 466, 473-476; 628 NW2d 577 (2001).