

STATE OF MICHIGAN
COURT OF APPEALS

DAVID N. GLENN,

Plaintiff-Appellant,

v

CITY OF LANSING,

Defendant-Appellee.

UNPUBLISHED

November 15, 2012

No. 305072

Ingham Circuit Court

LC No. 10-001546-CH

Before: TALBOT, P.J., and BECKERING and M. J. KELLY, JJ.

PER CURIAM.

In this suit to prevent the demolition of plaintiff David N. Glenn's home, Glenn appeals the circuit court's order granting summary disposition in defendant City of Lansing's favor. Because we conclude that the trial court did not err when it granted summary disposition in the City's favor, we affirm.

The City "red-tagged" Glenn's residence on April 22, 2004 and sent him a "code correction notice" identifying several violations of the Lansing Housing and Premises Code that he had to correct by May 22, 2004. The City inspected the home again on January 25, 2010 and determined that there were unsatisfactory repairs and further code violations. The City asked Glenn to allow an interior inspection of the property, which the City conducted on February 19, 2010. The City noted several code and safety violations during this inspection. The City informed Glenn that his residence would be referred to the City's "Make Safe or Demolish" board. The City further ordered Glenn to "show cause why the subject building(s) should not be ordered to be made safe for its intended use or be demolished and the surroundings maintained." The Board heard arguments on April 22, 2010, and ordered that the residence be made safe or demolished by June 27, 2010.

The Committee and the Council eventually adopted Resolution 2010-298 on August 23, 2010, which ordered that the residence be made safe or demolished within 60 days. The resolution also provided that "the property owner(s) is hereby notified that this order must be appealed within twenty days pursuant to MCL 125.542."

Glenn petitioned the circuit court for a temporary restraining order to stop the demolition on December 2, 2010. On December 3, 2010, the circuit court issued an order staying the implementation of Resolution 2010-298 until after oral argument. After hearing oral argument, the circuit court issued a preliminary injunction further staying the execution of the resolution on

December 20, 2010. The circuit court eventually determined that Glenn's failure to file a timely appeal of the City's demolition order precluded it from exercising jurisdiction. Accordingly, the circuit court granted summary disposition in the City's favor under MCR 2.116(C)(4), dissolved the preliminary injunction, and dismissed the case.

Glenn argues that the circuit court erred when it granted summary disposition in the City's favor. We review de novo a circuit court's decision on a motion for summary disposition. *Auto Club Group Ins Co v Burchell*, 249 Mich App 468, 479; 642 NW2d 406 (2001).

Circuit courts are courts of general jurisdiction and may "hear and determine all civil claims" except, in relevant part, where they have been "denied jurisdiction by the constitution or statutes of this state." MCL 600.605. In addition to this general jurisdiction, Michigan's housing law also provides circuit courts with the jurisdiction to hear appeals from final decisions made by a legislative body or board of appeals. See MCL 125.542. However, the owner must appeal "by filing a petition for an order of superintending control within 20 days from the date of the decision." MCL 125.542.

Here, Glenn asked the trial court to enjoin the demolition of his home on the basis of several errors that he alleged the City committed in reaching its decision to order the home's demolition. As the trial court correctly noted, Glenn's suit was essentially a claim of appeal from the City's order. See, e.g., *Krohn v Saginaw*, 175 Mich App 193, 198; 437 NW2d 260 (1988) (looking to the substance of the claims stated in the complaint to determine whether the complaint merely alleges defects in the underlying agency's methods and results or actually states a separate cause of action). As an appeal, Glenn's suit was plainly untimely under MCL 125.542. As such, the trial court did not err when it determined that it did not have jurisdiction to hear Glenn's appeal as an appeal by right. *Id.* at 196-197 (holding that the trial court did not have jurisdiction to hear an appeal from a zoning decision because the appeal was untimely). Similarly, to the extent that the trial court might have had jurisdiction to hear a late appeal, we decline to consider whether delayed leave should have been granted; the decision to grant delayed leave is a matter of discretion with the circuit court and Glenn did not make such a request. *Id.* at 197 ("It is inappropriate for us to decide whether a delayed application should have been granted had it been made or had the complaint been treated as such since neither was the case."); accord *Schlega v Detroit Bd of Zoning Appeals*, 147 Mich App 79, 82; 382 NW2d 737 (1985).

There were no errors warranting relief.

Affirmed.

/s/ Michael J. Talbot
/s/ Jane M. Beckering
/s/ Michael J. Kelly