

Circuit Court for Prince George's County  
Case No. CAL15-25140

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2209

September Term, 2016

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ACC MORTGAGE, INC.

v.

DEBORAH DRIVER

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Arthur,  
Friedman,  
Rodowsky, Lawrence F.  
(Senior Judge, Specially Assigned),  
JJ.

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Opinion by Arthur, J.

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Filed: December 19, 2017

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

The contract purchaser of a piece of real property paid \$2,000.00 into escrow as an earnest-money deposit. When disputes arose between the purchaser and the seller, the escrow agent paid the \$2,000.00 into the registry of the circuit court and filed an action for interpleader. After a trial, the circuit court decided that the \$2,000.00 belonged to the purchaser, and the seller appealed. We must vacate the judgment, because the circuit court lacked jurisdiction to decide a small claim in which the amount in controversy was less than \$5,000.00.

#### **FACTUAL AND PROCEDURAL HISTORY**

On November 16, 2013, Deborah Driver offered to buy a house in Temple Hills from ACC Mortgage, Inc. On November 23, 2013, Ms. Driver paid an initial deposit of \$2,000.00, which was held in escrow by Exit Elite Realty LLC. ACC Mortgage accepted the offer on November 25, 2013.

Because of disputes about the condition of the property and about Ms. Driver's ability to obtain financing, the parties did not go to closing. Consequently, on September 4, 2015, the escrow agent filed an interpleader complaint with the Circuit Court for Prince George's County to determine who was entitled to the deposit. The escrow agent was dismissed from the suit after paying the deposit in the court's registry.

Ms. Driver and ACC Mortgage appeared for trial on December 8, 2016. At the beginning of the proceedings, the circuit court commented that because the amount in controversy was less than \$5,000.00, the interpleader complaint should have been filed in the district court. Nonetheless, the court proceeded to trial under the theory that it could

treat the interpleader case as a “small claim.” On the merits, the court rendered a judgment in favor of Ms. Driver.

ACC Mortgage noted this timely appeal.

### **QUESTION PRESENTED**

ACC Mortgage raises three questions for our review, but because the first is dispositive, it is the only one we address: Did the circuit court lack subject-matter jurisdiction to adjudicate the case pursuant to Md. Code (1974, 2013 Repl. Vol.), § 4-405 of the Courts and Judicial Proceeding Article (“CJP”) when the amount in controversy totaled \$2,000.00?

For the reasons that follow, we answer that question in the affirmative.

### **DISCUSSION**

The circuit court of a county “has full common-law and equity powers and jurisdiction in all civil and criminal cases within its county, and all the additional powers and jurisdiction conferred by the Constitution and by law, except where by law jurisdiction has been limited or conferred exclusively upon another tribunal.” CJP § 1-501. One place where jurisdiction is “conferred exclusively upon another tribunal” is CJP section 4-405, which states, in pertinent part, that the district court “has *exclusive* jurisdiction over a small claim action, which, for purposes of this section, means a civil action for money in which the amount claimed does not exceed \$5,000 exclusive of interest, costs, and attorney’s fees[.]” (Emphasis added.) Because the claim here was for

\$2,000.00, it is properly classified as a small claim that falls within the district court’s exclusive jurisdiction. Thus, the circuit court was without jurisdiction to entertain it.

From a practical perspective, it is understandable why the circuit court would not want to turn the parties away and require them to start over in district court after they had already spent more than a year in circuit court, litigating over \$2,000.00. Still, the circuit court cannot exercise jurisdiction that it does not have. Because the circuit court did not have subject-matter jurisdiction over this small claim, it could not proceed to decide the case on the merits.

Although ACC Mortgage did not vociferously object to the circuit court’s attempt to exercise jurisdiction over a claim that was in the exclusive jurisdiction of the district court, Rule 8-131(a) provides that “issues of jurisdiction of the trial court over the subject matter . . . may be raised in and decided by the appellate court whether or not raised in and decided by the trial court.” *See also Harris v. Simmons*, 110 Md. App. 95, 113 (1996) (“[l]ack of subject-matter jurisdiction may be raised at any time”). In view of Rule 8-131(a), we can consider the question of subject-matter jurisdiction notwithstanding the absence of an objection in the circuit court.

In summary, because the district court has exclusive jurisdiction over small claims such as the one in this case, we must vacate the judgment and remand the case to the circuit court. We offer two comments to guide the courts on remand.

First, under Md. Rule 2-327(a), “If an action within the exclusive jurisdiction of the District Court is filed in the circuit court but the court determines that in the interest

of justice the action should not be dismissed, the court may transfer the action to the District Court sitting in the same county.” Because of the relatively small amount in controversy in this case as well as the comparatively large amount of time and effort that the parties have already dedicated to the litigation, it would, in our view, be in the interest of justice, for the circuit court to transfer this action to the District Court of Maryland for Prince George’s County. Presumably, the circuit court would also have to transfer the \$2,000.00 from its registry to the registry of the district court.

Second, because the parties have already tried this case on the merits, we see no reason why they should be required to try the case again. Instead, upon the transfer of the case from the circuit court to the district court, the district court may decide the case on the record that the parties compiled during the trial in the circuit court, unless one of the parties objects or the court itself sees the need for live testimony.

**JUDGMENT OF THE CIRCUIT COURT  
FOR PRINCE GEORGE’S COUNTY  
VACATED. CASE REMANDED TO THE  
CIRCUIT COURT FOR PRINCE  
GEORGE’S COUNTY FOR FURTHER  
PROCEEDINGS CONSISTENT WITH  
THIS OPINION. COSTS TO BE DIVIDED  
EVENLY BETWEEN THE PARTIES.**