

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37**

RITZ-CRAFT CORPORATION OF  
PENNSYLVANIA

Appellant

v.

SIERRA'S GLEN DEVELOPERS, LLC.

: IN THE SUPERIOR COURT OF  
: PENNSYLVANIA  
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No. 1073 MDA 2023

Appeal from the Order Entered June 27, 2023  
In the Court of Common Pleas of Union County  
Civil Division at No(s): 22-0521

BEFORE: NICHOLS, J., KING, J., and SULLIVAN, J.

JUDGMENT ORDER BY NICHOLS, J.:

**FILED: JANUARY 18, 2024**

Appellant Ritz-Craft Corporation of Pennsylvania appeals from the order dismissing its complaint filed against Appellee Sierra's Glen Developers, LLC. Appellant argues that the trial court erred in dismissing the complaint and should have transferred the matter to the Dauphin County Court of Common Pleas. After review, we vacate and remand for further proceedings.

The trial court summarized the relevant facts and procedural history of this matter as follows:

[Appellant] is a corporation with its principal place of business being located in Union County, Pennsylvania. [Appellee] is a limited liability company with its principal place of business being located in Dauphin County, Pennsylvania. On September 20, 2017, [Appellant] and [Appellee] entered into a contract whereby [Appellant] agreed to manufacture and [Appellee] agreed to purchase modular and mobile homes for resale to [Appellee's] consumers in Dauphin County. In January 2018, [Appellee] placed an order with [Appellant] for [Appellant] to construct a

modular home unit to install in Dauphin County. In October 2018, upon completion of the units, [Appellee] did not accept the units, nor pay the full amount for the units within the contracted timeframe. On November 19, 2018, [Appellant] sent [Appellee] a formal notice of contract default alleging that [Appellee] defaulted on their contractual obligations.

On May 10, 2022, [Appellee] commenced an action against [Appellant] in the Magisterial District Court of Dauphin County. On September 28, 2022, judgment was entered against [Appellant] in the Magisterial District Court action. On October 11, 2022, [Appellant] commenced this current action in the Court of Common Pleas in Union County against [Appellee] alleging breach of contract. On October 28, 2022, [Appellant] filed a notice of appeal from the Magisterial District [Court] action in Dauphin County. On November 17, 2022, [Appellee] filed its complaint in the appeal of the Magisterial District [Court] action in Dauphin County. On December 19, 2022, [Appellee] filed preliminary objections to [Appellant's] complaint in Union County based on improper venue, the complaint being filed during the pendency of prior action, and failure to conform to rule of law or rule of court.

**See** Trial Ct. Op., 8/31/23, at 1-2 (unpaginated).

On June 27, 2023, the trial court sustained Appellee's preliminary objection to venue and dismissed Appellant's complaint in the Union County action. Appellant timely appealed.

On appeal, Appellant raises the following issue:

Whether the Common Pleas Court, after finding venue improper, incorrectly dismissed the [c]omplaint instead of transferring it to the appropriate county per the Pennsylvania Rules of Civil Procedure?

Appellant's Brief at 5.

Appellant argues that after the trial court sustained Appellee's preliminary objections pursuant to Pa.R.Civ.P. 1006(e), the court should have

transferred the matter to the Dauphin County Court of Common Pleas, rather than dismissing the complaint. Appellant's Brief at 10-11.

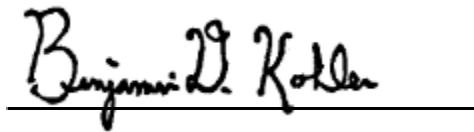
Initially, Rule 1006 of the Pennsylvania Rules of Civil Procedure provides that "[i]f a preliminary objection to venue is sustained, and there is a county of proper venue within the State, the action shall not be dismissed but shall be transferred to the appropriate court of that county." Pa.R.Civ.P. 1006(e); **see also *Martin v. Gerner***, 481 A.2d 903, 909-10 (Pa. Super. 1984) (applying Rule 1006(e) and concluding that the trial court erred in dismissing the complaint for improper venue rather than transferring the case to the county where proper venue and jurisdiction lie).

Here, in its Pa.R.A.P. 1925(a) opinion, the trial court concedes that it mistakenly dismissed the complaint and should have transferred the matter to the Dauphin County Court of Common Pleas. **See** Trial Ct. Op., 8/31/23, at 2-3 (unpaginated). The trial court asks this Court to vacate the order on appeal and remand for the trial court to enter an order transferring the proceedings to the Dauphin County Court of Common Pleas. **See id.** at 3 (unpaginated).

After review, we agree with the trial court that remand is appropriate to allow the trial court to transfer the case to Dauphin County. Accordingly, we vacate the trial court's order and remand for further proceedings consistent with this judgment order.

Order vacated. Oral argument cancelled. Case remanded for further proceedings. Jurisdiction relinquished.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.  
Prothonotary

Date: 1/18/2024