MISSOURI COURT OF APPEALS
WESTERN DISTRICT

JTB PROPERTIES, LLC.,

Appellant

v.

JOSEPH ZWILLENBERG, ET AL..

Respondents

DOCKET NUMBER WD84001

DATE: May 25, 2021

Appeal From:

Circuit Court of Jackson County, MO
The Honorable James Dale Youngs, Judge

Appellate Judges:

Division One
Anthony Rex Gabbert, Presiding Judge, Edward R. Ardini, Jr., Judge, Thomas N. Chapman, Judge

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Attorneys:

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Attorneys:

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Counsel for Respondents

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

JTB PROPERTIES, LLC., Appellant,
v.
JOSEPH ZWILLENBERG, ET AL., Respondents

WD84001 **Jackson County**

Before Division One Judges: Anthony Rex Gabbert, Presiding Judge, Edward R. Ardini, Jr., Judge, and Thomas N. Chapman, Judge

JTB Properties, LLC appeals the partial summary judgment against it and the denial of its cross motion for summary judgment in the Jackson County Circuit Court. The matter before the court was whether JTB was entitled to specific performance and damages with respect to a contract for the sale for real property. In three points on appeal, JTB argues the trial court misapplied the law and ignored genuine issues of material fact.

AFFIRMED IN PART, REVERSED IN PART, AND REMANDED.

Division One holds:

(1) Where a real estate transaction failed to close in a situation where the purchaser fully performed under the contract and the seller did not fully perform, allegations by the seller that the title company would not have closed the transaction even if seller had fully performed because of problems with the title commitment are not a sufficient basis for summary judgment where the purchaser disputes those allegations leaving a genuine question of material fact.

(2) Where a real estate contract prohibits purchaser from seeking damages unless the purchaser provides written notice of termination of the contract and where purchaser has not provided that notice, purchaser's claim for damages is contractually barred.

Opinion by: Anthony Rex Gabbert, Judge Date: May 25, 2021

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