# STATE OF MICHIGAN

# COURT OF APPEALS

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| SPRINGING ACRES, INC.,<br><br>Plaintiff-Appellee, | UNPUBLISHED<br>July 20, 2006 |
| v | No. 259779<br>Kalamazoo Circuit Court |
| MICHIGANA HOLSTEINS, INC., PETER LINSSEN, and MORRIS-ANDERSON & ASSOCIATES, LTD.,<br><br>Defendants, | LC No. 02-000451-CK |
| and<br><br>VDS-FARMS, LLC,<br><br>Defendants-Appellant. | |

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Before: Talbot, P.J., and Owens and Murray, JJ.

PER CURIAM.

Following a bench trial, the trial court entered judgment in favor of plaintiff in this case arising out of a lease contract for dairy cows. Defendant appeals the November 29, 2004, judgment as of right, and we affirm.

Plaintiff contracted with Michigana Holsteins, Inc., (Michigana) to lease 295 dairy cows. Pursuant to the lease, Michigana was allowed to select its own cows and plaintiff would pay for them. In this arrangement, plaintiff never saw the cows before they were purchased. Rather, plaintiff relied on Michigana to identify and appropriately tag the leased cows so that plaintiff could later identify them. The cows were never properly identified, however, and Michigana subsequently sold all of its assets in a foreclosure sale, including a herd of 3,200 cattle that included the 295 leased cows owned by plaintiff. Plaintiff was never paid for 192 of its cows because they could not be specifically identified following the foreclosure sale. Defendant purchased all of Michigana's assets, and it claimed the cows could not be identified. Thus, defendant denied responsibility for paying for or returning the cows.

On appeal, defendant first asserts that the trial court erred when it determined that its purchase of Michigana's cattle was not commercially reasonable. We review questions of law de novo, *Haliw v Sterling Heights*, 471 Mich 700, 704; 691 NW2d 753 (2005), and findings of fact in a bench trial for clear error, *Michigan Citizens for Water Conservation v Nestle,* 269 Mich

App 25, 40; 709 NW2d 174 (2005). We will not reverse the factual findings of the trial court in a bench trial simply because we are convinced that we would have decided the case differently. *Id.* at 41.

The idea of "commercial reasonableness" is addressed in Article 9 of the Uniform Commercial Code. MCL 440.9627 provides in part:

> (1) The fact that a greater amount could have been obtained by a collection, enforcement, disposition, or acceptance at a different time or in a different method from that selected by the secured party is not of itself sufficient to preclude the secured party from establishing that the collection, enforcement, disposition, or acceptance was made in a commercially reasonable manner.
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> (3) A collection, enforcement, disposition, or acceptance is commercially reasonable if it has been approved in a judicial proceeding, by a bona fide creditors' committee, by a representative of creditors, or by an assignee for the benefit of creditors.

This section of the UCC addresses sales of assets by a secured party. In this case, the secured party was not involved in the sale between Michigana and defendant. Therefore, MCL 440.9627 is not applicable to this case. We recognize that defendant correctly argues that it purchased the assets of Michigana pursuant to a Foreclosure Sale Agreement and Judicial Confirmation Order, and that the disposition of collateral in a judicially approved manner is conclusively presumed to be commercially reasonable. *Apfelblat v Nat'l Bank Wynandotte-Taylor*, 158 Mich App 258, 264; 404 NW2d 725 (1987). The concept of commercial reasonableness, however, has no bearing on this case.

Even assuming, *arguendo*, that the trial court erred in making a factual finding regarding commercial reasonableness, the trial court's erroneous factual finding was not essential to the trial court's decision. Moreover, we will not reverse a trial court's decision if the correct result is reached for the wrong reason. *Computer Network, Inc v AM Gen Corp,* 265 Mich App 309, 313; 696 NW2d 49 (2005). It is clear, however, that the trial court did not decide the case in plaintiff's favor because it was commercially unreasonable for defendant to purchase cows that were subjected to leases. Rather, the trial court correctly found in plaintiff's favor because plaintiff had a perfected security interest in the cows and was entitled to payment.

Defendant also contends that the trial court erred in granting judgment for plaintiff because defendant should not be liable to plaintiff for cows that cannot be identified. Our review of the record reveals that defendant knew that plaintiff had a perfected interest in 295 of the cows over which it took possession. Plaintiff's perfected security interest followed the cows to defendant, the subsequent purchaser. MCL 440.9315(1) provides, in pertinent part:

> (a) a security interest or agricultural lien continues in collateral notwithstanding sale, lease, license, exchange, or other disposition thereof unless the secured party authorized the disposition free of the security interest or agricultural lien.

The only way in which defendant could take any of the 295 cows free and clear of the perfected security interest is if it was a buyer in the ordinary course of business. However, as defined by MCL 440.1201(9), defendant is not a buyer in the ordinary course of business:

> "Buyer in ordinary course of business" means a person that buys goods in good faith, without knowledge that the sale violates the rights of another person in the good, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. . . . Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under article 2 may be a buyer in ordinary course of business. A person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt is not a buyer in ordinary course of business.

There is no question that defendant knew that the some of the cows in the herd were leased cows and subject to claims by third parties. Furthermore, defendant purchased the cows from a receiver in a bulk foreclosure sale to satisfy a money debt. Defendant was not a buyer in the ordinary course of business and, thus, did not take the cows free of any security interest.

Defendant is benefiting from the use and potential ownership of 192 cows in which it has no interest. Plaintiff has a valid security interest that followed the cows, and it is entitled to compensation based on that interest. We affirm the trial court's judgment, holding defendant jointly and severally liable for the damages resulting from the improper possession and use of plaintiff's cattle.

Affirmed.

/s/ Michael J. Talbot
/s/ Donald S. Owens
/s/ Christopher M. Murray