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Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0097-15T2

JESSE ROSENBLUM,

Plaintiff-Appellant,

v.

BOROUGH OF CLOSTER and
BEVERLY ANN WATKINS,

Defendants-Respondents.

Argued January 10, 2017 – Decided July 12, 2017

Before Judges Reisner and Sumners.

On appeal from Superior Court of New Jersey,
Law Division, Bergen County, Docket No. L-
1020-15.

Jesse Rosenblum, pro se appellant.

JoAnn Riccardi argued the cause for respondent
(Edward Rogan & Associates, attorneys; Ms.
Riccardi, on the brief).

Donna J. Vellekamp, attorney for respondent
Beverly Ann Watkins, join in the brief of
respondent Borough of Closter.

PER CURIAM

Plaintiff Jesse Rosenblum appeals Law Division orders of: May 27, 2015, dismissing his complaint challenging defendant Borough of Closter's property tax assessment of property owned by defendant Barbara Ann Watkins and sanctioning him legal fees and costs in the amount of \$1747.50; June 8, 2015, sanctioning him additional legal fees and costs of \$702.50; and July 20, 2015, denying his motion for reconsideration. We affirm substantially for the reasons stated by Judge Lisa A. Firko in her comprehensive written riders to the May 27 and July 20 orders. We add these comments.

Plaintiff initially filed a complaint in the Tax Court, regarding farmland assessments on Watkins' property for the years 1997 through 2000, which was dismissed. We affirmed on appeal. Rosenblum v. Borough of Closter, No. A-1696-09 (App. Div. March 30, 2011). Plaintiff then filed complaints with the Tax Court regarding assessments on the same property for the years 2005, 2006, 2009, 2010, and 2011. After the Tax Court dismissed the complaint on summary judgment, we reversed and remanded for a trial on the merits. Rosenblum v. Borough of Closter, No. A-3340-11 (App. Div. May 30, 2013). Upon remand, after Watkins withdrew her applications seeking farmland assessments, the Tax Court entered an order on December 27, 2013, providing the matter was dismissed with prejudice because plaintiff withdrew his complaint

on the understanding that the Borough would assess Watkins' property fairly and consistently with applicable law.

Thereafter, the Borough issued new assessments of the property. Dissatisfied with the assessments, plaintiff sought a conference with the Tax Court. The request was denied, as was his subsequent motion to schedule a trial before the court. In response, plaintiff filed a four-count complaint with the Law Division alleging that: (1) Watkins and the Borough breached their "agreement" with him by refusing "to negotiate the finding of fair assessible [sic] values which is a condition precedent in the Judgments of the Tax Court"; (2) Watkins paid roll-back taxes for 2012 and 2013 "based on the disputed valuations being contested herein"; (3) Watkins falsely-swore her tax applications by inflating the acreage of cropland and pastures on her property; and (4) that Watkins and the Borough were engaged in a conspiracy to illegally qualify her property as farmland.¹

In lieu of filing an answer, the Borough filed a motion to dismiss the complaint due to lack of subject matter jurisdiction, Rule 4:6-2(a), and failure to state a claim upon which relief can be granted, Rule 4:6-2(e), and sought sanctions under Rule 1:4-

¹ Approximately nine months later, Watkins sold the property and paid all tax arrearages.

8(b)(1) for filing a frivolous complaint. Watkins joined the motion. Argument was held on May 8, 2015.

On May 27,² Judge Firko entered an order dismissing plaintiff's complaint with prejudice as to both defendants and requiring plaintiff to pay the Borough \$1,747.50 in legal fees and costs. In the written rider to her decision, the judge explained that the Law Division does not have jurisdiction to hear tax appeals and that the complaint should have been filed in the Tax Court. Furthermore, the complaint was untimely, as it was not filed within the statutory time period to file a tax appeal or seek leave to appeal to a reviewing court. See N.J.S.A. 54:3-21; R. 2:4-1.

With respect to sanctions, Judge Firko noted that the Borough served plaintiff with a notice pursuant to Rule 1:4-8 that his action was frivolous and sanctions would be sought if it was not dismissed. The judge noted that plaintiff was not the usual pro se litigant, having filed numerous "procedurally sound" tax appeals in the past, and "it was patently unreasonable for [him] to file a tax claim with the Law Division."

On June 8, 2015, the trial court entered a separate order requiring plaintiff to pay an additional \$702.50 to the Borough

² Although the order is dated "May 29, 2015," it is marked as filed on "May 27, 2015."

in accordance with an unopposed affidavit by its counsel detailing fees for arguing the motion and submission of a proposed form of order.

Finally, on July 20, 2015, Judge Firko entered an order denying plaintiff's motion for reconsideration. She attached a written rider to the order, with a detailed explanation that the motion failed to satisfy Rule 4:49-2 by showing that the initial decision was palpably incorrect or irrational.

On appeal, plaintiff essentially argues that the Borough's assessments from June 20, 2014 were unfairly low, and therefore he should have the opportunity to file a complaint in the Law Division. Although plaintiff's Notice of Appeal states that he is challenging the June 8, 2015 sanction order and the July 20, 2015 reconsideration order, he does not make any argument before us regarding them.

Our review of a trial court's dismissal of a complaint based upon the pleadings pursuant to Rule 4:6-2 motion is de novo. Flinn v. Amboy Nat'l Bank, 436 N.J. Super. 274, 287 (App. Div. 2014). "[O]ur inquiry is limited to examining the legal sufficiency of the facts alleged on the face of the complaint." Green v. Morgan Props., 215 N.J. 431, 451 (2013) (quoting Printing Mart-Morristown, supra, 116 N.J. at 746). "On appeal, review is plenary and we owe no deference to the trial judge's conclusions." State

v. Cherry Hill Mitsubishi, Inc., 439 N.J. Super. 462, 467 (App. Div. 2015) (citing Rezem Family Assocs., LP v. Borough of Millstone, 423 N.J. Super. 103, 114 (App. Div.), certif. denied, 208 N.J. 386 (2011)).

Appellate review is "one that is at once painstaking and undertaken with a generous and hospitable approach." Green, supra, 215 N.J. at 451 (quoting Printing Mart-Morristown, supra, 116 N.J. at 746). Nonetheless, dismissal is required "where the pleading does not establish a colorable claim and discovery would not develop one." Cherry Hill Mitsubishi, Inc., supra, 439 N.J. Super. at 467 (citing Camden Cnty. Energy Recovery Assocs. v. N.J. Dep't of Env'tl. Prot., 320 N.J. Super. 59, 64 (App. Div. 1999), aff'd o.b., 170 N.J. 246, 786 (2001)).

Having reviewed the record in light of the applicable legal standards, Judge Firko's decision to dismiss plaintiff's complaint with prejudice and sanction him fees and costs is legally unassailable. Plaintiffs' appellate arguments are without sufficient merit to warrant further discussion. R. 2:11-3(e)(1)(E).

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION