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APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court." 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-0311-21**

IBILOLA IGHAMA-AMEGOR,

Plaintiff-Appellant,

v.

**NEW JERSEY STATE POLICE,
NEW JERSEY STATE TROOPER
R.L. KROV, NEW JERSEY
STATE TROOPER L. AGUILAR,
NEW JERSEY STATE TROOPER
M.S. JOHNSON, STATE OF
NEW JERSEY, COLDWELL
BANKER RESIDENTIAL
BROKERAGE, JOHN PAPA,
individually, and acting as agent
of COLDWELL BANKER
RESIDENTIAL BROKERAGE,
COLDWELL BANKER REAL
ESTATE, LLC, and FEDERAL
HOME LOAN MORTGAGE CORP,**

Defendants,

and,

ALPHA TRANSPORTATION INC.,¹

¹ Improperly plead as Alpha Moving and Storage.

d/b/a ALPHA MOVING AND
STORAGE, i/p/a ALPHA MOVING
AND STORAGE,

Defendant-Respondent.

Submitted October 3, 2022 – Decided January 6, 2023

Before Judges Smith and Marczyk.

On appeal from the Superior Court of New Jersey, Law
Division, Essex County, Docket No. L-4528-18.

Forman, Cardonsky & Tsinman, attorneys for appellant
(Juan C. Cervantes, on the briefs).

Braff Harris & Sukoneck, attorneys for respondent
(Joseph M. DiCicco, on the brief).

PER CURIAM

Plaintiff, Ibilola Ighama-Amegor, brought a claim for damages against defendant, Alpha Transportation, Inc. (Alpha), alleging negligence in transporting and storing her property. She appeals the trial court's order granting summary judgment in favor of defendant, contending the trial court erred in finding her claim time-barred under N.J.S.A. 45:14D-12, the Public Mover and Warehousemen Licensing Act. We affirm.

Plaintiff and her sister, Bose Obegedor, along with other family members, lived in a house located in Hampton. Bose owned the house, but foreclosure

proceedings had commenced, and a judgment of foreclosure had been entered. Plaintiff, her sister, and their family were evicted on June 28, 2016, and the record shows the events which led to the judgment of foreclosure and resulting eviction are not before us.

On the date of the eviction, plaintiff attempted to remove personal items from the home because she did not want those items placed into storage. The items included medical records, personal effects, clothes, and perishable food items. A New Jersey State Police trooper, who was present during the eviction process, prevented her from doing so. During this unfortunate episode, Bose was arrested.

Alpha, was an agent of the judgment holder. Alpha commenced the removal of plaintiff and her family's possessions on June 28 and did not complete it until July 5, 2016. As part of Alpha's standard practice, it does not remove perishable items from a property during an eviction unless specifically directed to do so. The record shows that another agent, not Alpha, gathered various perishables from the apartment on July 5 and placed them in bags on a picnic table outside the home.

The record shows plaintiff and her family's possessions, including at least some of the perishable items, were removed from the residence and placed in

four public storage units.² Plaintiff was unable to obtain the keys to the storage facility from her sister Bose, and eventually plaintiff made arrangements to cut the locks in order to access her sister's storage units. When she gained access to the units, she discovered spoiled and rotting food mixed in with the rest of the property. Plaintiff contends that she conducted a post-eviction inventory which revealed many of her possessions were missing from the units.

Plaintiff filed a complaint on June 27, 2018 against multiple defendants, including: Alpha, the judgment holder and affiliated agents, the New Jersey State Police, and individual state troopers. She alleged various theories against the co-defendants which included negligence, trespass, and conversion. Over the course of the next thirty-six months, all defendants, except for Alpha, were dismissed by stipulation.

Alpha filed a motion for summary judgment, which was heard on August 19, 2021, by Judge Bridget A. Stecher. Alpha moved for summary judgment arguing plaintiff's claim was time barred under a plain reading of N.J.S.A. 45:14D-12.

The motion court made findings: plaintiff and her sister Bose had an opportunity to remove property, including plaintiff's, prior to the eviction date,

² Alpha took the property to Washington Storage in Washington, New Jersey.

but declined to do so; the property, including perishables, was placed in storage under Bose's name; and plaintiff presented no evidence showing she was blocked by Alpha or anyone else from getting the keys from Bose.

The court concluded as a matter of law that the action was time-barred under the statute, and also found no genuine issue of material fact on the question of Alpha's negligence. Plaintiff appealed, contending the statute did not apply to plaintiff and there was sufficient evidence of Alpha's negligence to defeat summary judgment.

Our review of a ruling on summary judgment is de novo, applying the same standard as the trial court. Conley v. Guerrero, 228 N.J. 339, 346 (2017). Summary judgment must be granted "if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment or order as a matter of law." Templo Fuente De Vida Corp. v. Nat'l Union Fire Ins. Co. of Pittsburgh, 224 N.J. 189, 199 (2016) (quoting R. 4:46-2(c)). Because the trial court does not enjoy the advantage in discerning the law it does in discerning the facts, we owe no special deference to the "trial court's interpretation of the law and the legal

consequences that flow from established facts" Manalapan Realty, L.P. v. Twp. Comm. of Manalapan, 140 N.J. 366, 378 (1995).

We affirm substantially for the reasons set forth by Judge Stecher in her oral opinion granting summary judgment for Alpha. We add the following brief comments.

N.J.S.A. 45:14D-12(b) provides in pertinent part: "All claims against any mover or warehousemen for damage to property shall be filed in writing with the mover or the warehousemen within ninety days from the time the cause of action accrues" A plain reading of the statute shows that plaintiff is not exempt from it. "All claims" must be filed "against the mover or the warehouseman" within ninety days of the accrual of the claim. N.J.S.A. 45:14D-12 (b) (emphasis added). The statute is clear and there is no ambiguity which would cause us to go beyond its language to discern legislative intent. Courts "look first to the plain language of the statute, seeking further guidance only to the extent that the Legislature's intent cannot be derived from the words that it has chosen." State v. Triosi, 471 N.J. Super. 158, 165 (App. Div. 2002) (quoting McGovern v. Rutgers, 211 N.J. 94, 108 (2012)).

Once plaintiff opened the storage units and discovered the damage to her property inside, her claim under the statute accrued and she had ninety days to

avail herself of her statutory rights. She did not do so, failing to file a claim against Alpha or the storage company. Her status as a non-party to the foreclosure action is irrelevant, as her claim accrued when she discovered her property had been mishandled. Plaintiff's effort to create a separate legislative class of claimants for herself outside of the statute is without merit. The reasons for plaintiff's delay in bringing her claim are irrelevant; be it either delay in accessing the units after eviction date and before she cut the locks, or delay after she discovered the property damage. Her claim is time-barred under this clearly worded statute, consequently there is no need to address the merits of the negligence claim.

To the extent plaintiff has remaining arguments we have not addressed here, it is because they lack sufficient merit to warrant discussion in a written opinion, 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