

IN THE COURT OF APPEALS OF OHIO  
SIXTH APPELLATE DISTRICT  
SANDUSKY COUNTY

Connie Belcher  
Appellant

Court of Appeals No. S-23-023  
Trial Court No. 22 CVF 118

v.

Darlene Ernsberger  
Appellee

**DECISION AND JUDGMENT**

Decided: June 28, 2024

\* \* \* \* \*

Karin L. Coble, for appellant.

\* \* \* \* \*

**DUHART, J.**

{¶ 1} Appellant Connie Belcher appeals the judgment of the Sandusky County Court District No. 2, ordering the forfeiture of Belcher’s dogs to the Sandusky Count Dog Warden’s office. For the reasons that follow, the trial court’s judgment is reversed and vacated.

## Statement of the Case and the Facts

{¶ 2} On July 18, 2022, Belcher filed a complaint in replevin against appellee Darlene Ernsberger. The complaint alleged that Belcher lent her three chihuahua dogs to Ernsberger so that Ernsberger could care for them while Belcher moved homes, and Ernsberger refused to return the dogs to Belcher. Ernsberger answered the complaint and proceedings commenced.

{¶ 3} On December 29, 2022, the parties agreed to a consent judgment entry that disposed of the issues before the court. In the judgment entry, the parties agreed, inter alia, that Ernsberger would be considered the owner of the dogs, that the parties shall have shared custody of the dogs with exchanges occurring each Sunday at 6:00 p.m., and that “[a]ny failure by either party to follow this agreement shall result in forfeiture of the animals to the Sandusky County Humane Society or the Sandusky County Dog Warden.”

{¶ 4} On May 11, 2023, the trial court, “having received complaints from the Sandusky County Humane Society, Gibsonburg Police Department and the Sandusky County Dog Warden,” sua sponte set a hearing to determine whether either or both of the parties violated the December 29, 2022 consent judgment entry.

{¶ 5} At the subsequent June 15, 2023 hearing, the Gibsonburg police chief and the Sandusky County dog warden testified that the parties had significant trouble with the exchanges, generating over fifty complaints to the police or the dog warden. Because of the difficulty, the exchanges were moved to the police station where there was video

surveillance. Both parties admitted to arguments, yelling, and occasionally threats during the exchanges, although each blamed the other.

{¶ 6} Following the hearing, the trial court found that the parties failed to follow the consent judgment entry and ordered that the dogs be forfeited to the dog warden.

### **Assignment of Error**

{¶ 7} Belcher timely appealed the trial court’s June 15, 2023 judgment entry, asserting one assignment of error for review:

1. The trial court violated appellant’s right to Due Process by depriving her of property without subject matter jurisdiction.

### **Analysis**

{¶ 8} In support of her appeal, Belcher argues that the trial court lacked subject matter jurisdiction to enforce the consent judgment entry because (1) it did not retain jurisdiction to enforce the agreement, and (2) neither party filed a motion or action to enforce the agreement.

{¶ 9} Addressing Belcher’s first argument, “as a general principle, a trial court may retain jurisdiction to enforce a settlement agreement when it dismisses a civil case.” *Infinite Security Solutions, L.L.C. v. Karam Properties, II, Ltd.*, 2015-Ohio-1101, ¶ 25. The court retains such jurisdiction after a case has been dismissed “only if the dismissal entry incorporated the terms of the agreement or expressly stated that the court retained jurisdiction to enforce the agreement.” *Id.* at syllabus. Here, the trial court’s December 29, 2022 dismissal entry incorporated the terms of the agreement. Thus, the court

generally retained jurisdiction to enforce those terms. *See Metron Nutraceuticals, L.L.C. v. Thomas*, 2022-Ohio-79, ¶ 28 (8th Dist.) (trial court had post-judgment authority to enforce the terms of the settlement agreement where the agreed judgment entry incorporated those terms).

{¶ 10} The issue of how that jurisdiction was triggered, however, is the subject of Belcher’s second argument. A settlement agreement may be enforced “either through filing an independent action for breach of contract, or by filing a motion to enforce the settlement in the same action pursuant to Civ.R. 15(E), which provides for the filing of supplemental pleadings.” *Natl. Court Reporters, Inc. v. Krohn & Moss, Ltd.*, 2011-Ohio-731, ¶ 12 (8th Dist.), citing *Davis v. Jackson*, 2004-Ohio-6735, ¶ 14 (9th Dist.); *see also Ogle v. Trustee of the Charles R. Ogle Irrevocable Trust Dated 10/21/2014*, 2024-Ohio-2280, ¶ 45 (5th Dist.). Neither of those events occurred in this case. Instead, the trial court, sua sponte, initiated its own hearing to determine whether the parties violated the consent judgment entry; this it was not permitted to do.

{¶ 11} When the court entered the consent judgment entry on December 29, 2022, it disposed of the issues before the court, terminated the replevin claim, and ended the litigation. *Infinite Security* at ¶ 16. It then reopened the matter upon receiving complaints from the Gibsonburg chief of police and the Sandusky County dog warden. However, “[i]t has been long and well established that it is the duty of every judicial tribunal to decide actual controversies between parties legitimately affected by specific facts and render judgments which can be carried into effect.” *State ex rel. Barclays Bank*

*PLC v. Hamilton Cty. Court of Common Pleas*, 74 Ohio St.3d 536, 542 (1996), quoting *Fortner v. Thomas*, 22 Ohio St.2d 13, 14 (1970). “Actual controversies are presented only when the plaintiff sues an adverse party. This means not merely a party in sharp and acrimonious disagreement with the plaintiff, but a party from whose adverse conduct or adverse property interest the plaintiff properly claims the protection of the law.” *Id.* Thus, “the presence of a disagreement, however sharp and acrimonious it may be, is insufficient to create an actual controversy if the parties to the action do not have adverse legal interests.” *Id.* Here, the Gibsonburg chief of police and the Sandusky County dog warden were not parties to the litigation and had no standing to enforce the consent judgment entered into between Belcher and Ernsberger. The trial court, furthermore, cannot of its own accord seek to enforce the settlement agreement between the two parties.

{¶ 12} Therefore, the trial court erred and was without jurisdiction when it sua sponte reopened the matter and found that the parties violated the terms of the settlement agreement where no separate action for breach of contract or motion to enforce the agreement had been filed.

{¶ 13} Accordingly, Belcher’s assignment of error is well-taken.

**Conclusion**

{¶ 14} For the foregoing reasons, the judgment of the Sandusky County Court District No. 2 is reversed and vacated. Ernsberger is ordered to pay the costs of this appeal pursuant to App.R. 24.

Judgment reversed  
and vacated.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27.  
*See also* 6th Dist.Loc.App.R. 4.

Christine E. Mayle, J.

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JUDGE

Myron C. Duhart, J.

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JUDGE

Charles E. Sulek, P.J.  
CONCUR.

\_\_\_\_\_  
JUDGE

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