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RECENT DEVELOPMENT

ALETI V. METRO. BALT., LLC: TENANTS CANNOT RECOVER RENT PAID TO AN UNLICENSED LANDLORD BASED SOLELY UPON THE LANDLORD’S LACK OF PROPER LICENSING.

By: Dean LaPonzina

The Supreme Court of Maryland¹ held that under Article 13, section 5-4(a)(2) of the Baltimore City Code, tenants could not recover the rent they’ve paid to an unlicensed landlord because the code does not provide tenants with a private right of action. *Aleti v. Metro. Balt., LLC*, 479 Md. 696, 718–19, 279 A.3d 905, 917–18 (2022). The court also held that the tenants in the present case failed to state a claim against their landlord for breach of contract and money had and received as to their payment of rent and related fees, but that they did state a claim against their landlord for money had and received as to their payment of legal fees. *Id.* at 706, 279 A.3d at 910-911.

Karunaker and Chandana Aleti (“the Aletis”) were tenants in an apartment building located in Baltimore City. The property was owned by Metropolitan Baltimore, LLC, and managed by Gables Rental Services, Inc. (collectively “Metropolitan”). The Aletis discovered that Metropolitan did not possess an active rental license as required by the Baltimore City Code for approximately ten months while they were tenants in the building. During this period, the Aletis continued to pay rent and other fees per their lease.

On February 24, 2020, the Aletis filed a complaint in the Circuit Court for Baltimore City alleging that Metropolitan violated section 5-4(a)(2) by improperly charging them rent and other fees while tenants in the unlicensed property. The Aletis also alleged that Metropolitan falsely represented that it was licensed when previously filing complaints against them for nonpayment of rent. The Aletis additionally sought to represent a class consisting of the property’s other tenants.

The circuit court dismissed the case, and the Aletis appealed. The Appellate Court of Maryland reversed in part, holding that section 5-4(a)(2) did not enable the Aletis to recover rent paid, the Aletis did not establish a breach of contract claim, the Aletis could only recover the legal and other related fees they paid in the previous cases brought against them by Metropolitan, and the Aletis were entitled to a declaratory judgment.

The Supreme Court of Maryland granted the Aletis’ petition for writ of *certiorari* to determine: (1) if section 5-4(a)(2) allows a tenant to recover the

¹ At the November 8, 2022, general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Appeals of Maryland to the Supreme Court of Maryland and the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

rent they paid to a landlord while leasing an unlicensed property, (2) if money had and received was an available remedy, and (3) if the Aletis established a breach of contract claim against Metropolitan.

The Supreme Court of Maryland, reviewing *de novo*, began its analysis by first determining whether section 5-4(a)(2) established an implied private right of action to recover rent paid to an unlicensed landlord based solely upon a landlord's lack of licensure. *Aleti*, 479 Md. at 723, 279 A.3d at 920. To do so, the court employed a three-part test articulated by the U.S. Supreme Court that asked whether the Aletis were a part of the class that benefitted from the enactment of the statute, whether there was any indication of legislative intent to create or deny a private right of action, and whether implying a private right of action was consistent with the underlying purposes of the legislative scheme. *Id.* at 723-24, 279 A.3d at 920-21 (citing *Scull v. Groover, Christie & Merritt, P.C.*, 435 Md. 112, 121, 76 A.3d 1186, 1191 (2013); *Baker v. Montgomery County*, 427 Md. 691, 709, 50 A.3d 1112, 1122 (2012)).

First, the court found that the statute was enacted for the protection and benefit of the health, safety, and welfare of the public, not to provide a right of free housing to tenants in unlicensed properties. *Aleti*, 479 Md. at 725-26, 279 A.3d at 921-22. Second, the court found that there was no indication of legislative intent to create a private right of action based on the statute's expressly stated purpose, nor was this intent raised in any supporting testimony when it was being considered. *Id.* at 728-29, 279 A.3d at 923. Third, the court found that implying a private right of action was not consistent with the underlying purpose of the city's rental license scheme because doing so could have severe consequences on Baltimore City landlords without taking into consideration the reason for their lack of licensure. *Id.* at 734, 279 A.3d at 926-27. Because the statute was enacted to benefit the general public rather than tenants in particular, and the legislative history was so barren of any evidence indicating that the locality or the state intended to imply a private right of action, the court held that section 5-4(a)(2) did not provide the Aletis with this right. *Id.* at 735, 279 A.3d at 927.

The court then turned to the Aletis' claim for money had and received. *Aleti*, 479 Md. at 735, 279 A.3d at 927. The common law action of money had and received is an equitable remedy that permits the recovery of money paid when it was wrongfully obtained by an opposing party. *Id.* at 737, 279 A.3d at 928 (citing *Bourgeois v. Live Nation Ent., Inc.*, 430 Md. 14, 46, 59 A.3d 509, 527 (2013)). However, money had and received is generally not available once a contract has been fully executed. *Aleti*, 479 Md. at 737, 279 A.3d at 928. The court has previously held that it is not unjust to allow a landlord to keep rent and other fees that have been paid by a tenant where the

tenant attempts to recover based solely on the grounds that the landlord was improperly licensed. *Id.* at 739, 279 A.3d at 930. In the present case, the Aletis received the benefits that they bargained for in the lease. *Id.* at 740, 279 A.3d at 930. Therefore, the court held that the Aletis failed to state a cause of action for money had and received as to payment of rent and related fees because the lease was fully performed by Metropolitan and the Aletis had suffered no actual injuries or damages. *Id.* at 739, 279 A.3d at 929. However, the court held that the Aletis *did* state a cause of action for money had and received as to the legal fees they paid in the actions brought against them by Metropolitan for failure to pay rent, because a landlord must be licensed to bring such an action. *Id.* at 740-41, 279 A.3d at 930-31 (emphasis added).

Finally, the court turned to whether the Aletis' complaint properly stated a claim for breach of contract against Metropolitan. *Aleti*, 479 Md. at 741, 279 A.3d at 931. The court found that the Aletis did not identify any breach or damages caused by a breach and therefore held that the Aletis failed to state a claim against Metropolitan for breach of contract. *Id.* at 742, 279 A.3d at 931 (citing *Aleti v. Metro. Balt., LLC*, 251 Md. App. 482, 512, 254 A.3d 533, 550 (2021)).

In a concurring and dissenting opinion, Justice Watts argued that section 5-4(a)(2) did provide a private right of action enabling tenants to recover rent paid to an unlicensed landlord. *Aleti*, 479 Md. at 744-45, 279 A.3d at 933 (Watts, J., dissenting). Justice Watts argued that all three factors considered were satisfied in the present case. *Aleti*, 479 Md. at 745, 279 A.3d at 933 (Watts, J., dissenting) (citing *Cort v. Ash*, 422 U.S. 66, 78 (1975)). Justice Watts also argued that the Aletis sufficiently stated a claim against Metropolitan for both breach of contract and money had and received. *Aleti*, 479 Md. at 745, 279 A.3d at 933 (Watts, J., dissenting).

The Supreme Court of Maryland held that tenants are unable to recover the rent they've paid to an unlicensed landlord under Article 13, section 5-4(a)(2) of the Baltimore City Code based solely upon the landlord lacking the proper licensing for the property. Allowing tenants to recover rent paid based solely on lack of proper licensing could have severe negative economic consequences for landlords throughout Baltimore City, some of whom simply allow their licenses to lapse due to carelessness and oversight. At the same time, as currently interpreted, tenants have limited means and methods to recover when unlicensed landlords violate the statute. This is an important issue that the court needs to consider the consequences of, especially to protect tenants in substandard housing and to make a remedy available to them when landlords violate the statute. It is necessary for tenants to be able to bring such claims to ensure properly licensed housing that they should have a right to under the law.