

**NJ eCourts Case Initiation Confirmation - Civil Case CUM-L-000677-20**

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Tue 11/3/2020 10:21 AM

To: Russell, Brock <Brock.Russell@millvillenj.gov>; DIAMONDLAWGIRL@AOL.COM <DIAMONDLAWGIRL@AOL.COM>

**SUPERIOR COURT OF NEW JERSEY - eCOURTS**

The following was filed by RUSSELL, BROCK D on 11/03/2020 at 10:21 AM:

Plaintiff  
Name: CITY OF MILLVILLE

Defendant  
Name: ANTHONY DESANTIS, CRECENZIO DESANTIS, GARY PORAT

Case  
Caption: MILLVILLE CITY VS DESANTIS ANTHONY

Case  
Number: CUM-L-000677-20

Docket  
Text: Complaint for CUM-L-000677-20 submitted by RUSSELL, BROCK D, BROCK D. RUSSELL, LLC on behalf of CITY OF MILLVILLE against ANTHONY DESANTIS, CRECENZIO DESANTIS, GARY PORAT

Transaction  
ID: LCV20201974375

Law Firm  
Case ID:

Documents Attached:

Document Type	File Name	Document Description
COMPLAINT	COMPLAINT.pdf	Complaint

This communication is for notification purposes only.

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Millville, New Jersey 08332  
(856) 825-0728  
Attorney for Plaintiff

CITY OF MILLVILLE

Plaintiff

~vs~

ANTHONY DeSANTIS, CONCENZIO  
DeSANTIS and GARY PORAT

Defendant

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
GENERAL EQUITY PART  
CUMBERLAND COUNTY

Docket No.:

Civil Action

**COMPLAINT**

The plaintiff, City of Millville (hereinafter the "City"), a municipal subdivision of the State of New Jersey, by way of Complaint, states:

FACTS COMMON TO BOTH COUNTS

1. On December 31, 2015 fee simple title was vested in the City in certain property commonly known as 200 G Street and also known as Block 260, Lot 1 on the official tax map of the City of Millville (hereinafter the "Property") by Final Judgment entered as a result of the City's tax foreclosure action against Block 260, Lot 1, assessed to GGI Properties, LLC (hereinafter "GGI") in New Jersey Superior Court, Chancery Division, Cumberland County under docket number F-044148-14.

2. On January 8, 2016 said Final Judgment was recorded in the Cumberland County Clerk's Office in Book 4137, Page 430.

3. On January 17, 2017 the City adopted Resolution 43-2017 under which the entirety of the City was designated an Area in Need of Rehabilitation under the Local Redevelopment and Housing Law (N.J.S.A. 40A:12A-1 et seq.).

4. On April 4, 2017 the City adopted Ordinance 14-2017 which adopted a Redevelopment Plan for the entirety of the City including the Property.

5. On December 19, 2017 the City adopted Resolution No. 377-2017 which designated Anthony DeSantis (hereinafter "DeSantis") as "Conditional Developer" of the Property.

6. On or about March 6, 2018 the City adopted Resolution No. 109-2018 which approved a superceding Memorandum of Understanding (hereinafter "MUA") and reaffirmed DeSantis as conditional redeveloper of the property and provided that the City would attempt to negotiate a sale/redevelopment of the property to DeSantis for a period of 120 days which period could be extended by mutual written agreements.

7. In the interim the prior owner of record of the Property, GGI, had filed an adversary proceeding in U.S. Bankruptcy Court which resulted in a Notice of Judgment or Order being entered by that court on June 6, 2018 in its favor which ordered and directed the City to transfer title of the property back to GGI.

8. On June 25, 2018 it is believed that DeSantis entered into an Agreement of Sale with GGI or its principals under which DeSantis agreed to pay GGI the sum of \$125,000.00 on the condition that DeSantis would acquire "marketable and insurable title" to the property from either GGI or the City as the case may be.

9. On July 2, 2018 DeSantis and former City Attorney, James Schroeder, signed a letter of intent outlining the development milestones for a proposed sale of the Property by the City to DeSantis.

10. On August 10, 2018 GGI filed a Notice of Proposed Compromise or Settlement of Controversy in U.S. Bankruptcy Court. The settlement provided that the principals of GGI would receive \$125,000.00 from DeSantis as the proposed buyer of the property and that GGI would agree to a vacation of the aforesaid Bankruptcy Court Judgment requiring the City to transfer title back to GGI.

11. On September 27, 2018 an Order of Dismissal was entered in the bankruptcy matter.

12. On October 2, 2018 the City adopted Resolution No. 306-2018 approving the agreement between GGI and the City settling GGI's bankruptcy adversary proceeding and releasing GGI's claims against the property leaving fee simple title vested in the City.

13. On December 19, 2018 former City attorney, James Schroeder, directed correspondence to DeSantis' attorney, Louis Magazzu, Esquire, confirming DeSantis' agreement to meet deadlines for the submission of a Redevelopment Plan as well as making application for and obtaining Site Plan Approval.

14. On March 21, 2019 DeSantis' Planner, Stuart Wise of ARH Associates, submits a draft Redevelopment Plan for the Property.

15. On September 17, 2019 the City adopted Resolution No. 239-2019 declaring Memorandum of Understanding with Anthony DeSantis designating him redeveloper of the property null and void.

16. On February 4, 2020 the City adopted Resolution No. 71-2020 appointing DeSantis and his designees as conditional redeveloper on the condition that Green Envirotech Holdings, LLC and/or Robert Feller would no longer be involved in the project and also that a \$5,000.00 escrow payment be made. Said resolution also approved a Purchase and Sale Agreement (hereinafter the "Agreement") for the sale of the Property to Anthony DeSantis, Concenzio DeSantis and Gary Porat (hereinafter the "DeSantis Group") of even date.

17. Said Agreement provided that the DeSantis Group intended "to redevelop the property into a plastics recycling facility and/or plastic to fuel oil reprocessing facility, or such other industrial uses approved as permitted in the Redevelopment Plan, Redevelopment Agreement or subsequently approved by the Millville Planning Board and Millville City Commission as permitted by the City's Zoning Ordinance or Master Plan."

18. Paragraph 2.1 of the Agreement provided that the purchase price to be paid by the DeSantis Group was \$150,000.00.

19. Paragraph 2.2 acknowledged that the DeSantis Group had already paid \$125,000.00 to GGI pursuant to the settlement of the adversary proceeding in Bankruptcy

Court between GGI and the City and further provided that said amount was intended to secure the DeSantis Group's obligations under the agreement.

20. Paragraph 4.1 of the agreement provided that the DeSantis Group was to have 120 days following the execution of the agreement in order to make any and all inspections, environmental or otherwise, and to review the quality of the City's title.

21. Paragraph 5 provided that in the event the DeSantis Group decided to cancel the Agreement for any reason it could do so as long as it provided written notice pursuant to the terms of the agreement to the City prior to the expiration of the aforesaid 120 day period.

22. Paragraph 6.1 provided that the DeSantis Group's obligation to close title would be subject to the fulfillment of four enumerated conditions precedent. It further provided that the last two conditions, sub-paragraphs (c) and (d), were not waivable by the DeSantis Group. Paragraph 6.1(c) required DeSantis to obtain the City's approval for a Redevelopment Plan and further required it to enter into a Redevelopment Agreement reasonably acceptable to the purchaser, but consistent with the Redevelopment Plan.

23. Paragraph 6.2 provided that in the event any of the enumerated provisions precedent were not fulfilled as of July 1, 2020 "this AGREEMENT shall be at an end, and it and/or any other putative agreements or putative commitments between and/or among the City or Purchaser and/or any other companies or individuals affiliated with the Purchaser shall be completely null and void."

24. Paragraph 14 provided that "time was of the essence" for a closing to be held on August 1, 2020 at 10:00 a.m. at the law offices of Brock D. Russell, Esquire, 706 North High Street in Millville, New Jersey." It further provided that in the event the DeSantis Group whether acting in good faith or not was not ready and able to close by said date, the City could cancel the agreement without any further liability to the DeSantis Group.

25. Paragraph 20 provided that all notices required or permitted under the agreement were to be "delivered by hand and mailed by certified or registered mail, return receipt requested, or overnight delivery service in a postage paid envelope."

26. On March 9, 2020 the DeSantis Group's planner, ARH, submitted a Revised Draft Redevelopment Plan.

27. On May 18, 2020 the City of Millville Planning Board adopted a Resolution recommending approval by the governing body of a Redevelopment Plan for the property.

28. On June 2, 2020 the City adopted the Redevelopment Plan recommended by the Planning Board by Ordinance No. 12-2020.

29. Said Redevelopment Plan consistent with the Agreement required the DeSantis Group to obtain preliminary and final site plan approval prior to closing.

30. The DeSantis Group failed to apply for site plan approval let alone obtain preliminary or final site plan approval on or before July 1, 2020.

COUNT ONE

31. The City has been in peaceable possession of the property ever since it obtained its foreclosure judgment which was recorded as aforesaid in the Cumberland County Clerk's Office on January 8, 2016.

32. The City's title to the property or to some part thereof is denied or disputed by the defendants who claim to own the same or some part thereof, or some interest therein or hold some lien or encumbrance thereon.

33. No action is pending to enforce or test the validity of the defendants' title, interest, lien or encumbrance thereon.

WHEREFORE, the City demands judgment on this Count as follows:

- (A) Determining that the defendants have no title to, nor interest in nor encumbrance upon the property.
- (B) Determining that the City has a good and valuable title to the property insofar as the claim of the defendants are concerned;
- (C) For counsel fees and costs; and
- (D) For such further relief as the Court may deem equitable and just.

COUNT TWO

34. In June of 2020 the DeSantis Group advised the City that it no longer intended to obtain site plan approval prior to closing. Instead, it demanded that it be permitted to close on the title and to obtain its site plan approval for the property at some later date.

35. The DeSantis Group also demanded that the City amend its Redevelopment Plan adopted by Ordinance No. 12-2020 on June 2, 2020 so as to remove the requirement that the purchaser be required to obtain preliminary and final site plan approval prior to closing.

36. In July of 2020 the DeSantis Group further advised the City that it could no longer wait until site plan approval and intended to buy an alternate property in the City of Vineland.

37. The DeSantis Group breached the terms of the Agreement by failing to apply for and obtain preliminary and final site plan approval prior to July 1, 2020 as required by Paragraph 6.2 of the agreement.

38. The DeSantis Group further failed to serve a Notice of Termination on the City on or before 120 days from the date the agreement was executed as required by Paragraph 5 of the Agreement in order to obtain a refund of the \$125,000.00 payment it had made to GGI Properties, LLC which under the terms of the Agreement served as its security deposit.

39. Based upon the aforesaid breach of the Agreement by the DeSantis Group, the City has been unable to market the Property to another purchaser or redeveloper in order to redevelop the property which is blighted, dilapidated and is otherwise a nuisance.

WHEREFORE, plaintiff demands judgment on this Court as follows:

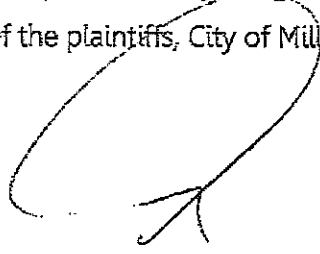
- (A) Adjudging that the defendants have breached the aforesaid Agreement;
- (B) Determining that the defendants are not entitled to reimbursement from the City for the \$125,000.00 amount the DeSantis Group paid to GGI Properties, LLC;
- (C) Declaring the agreement null and void and relieving the plaintiff of any further obligation to the defendants;
- (D) For counsel fees and costs; and
- (E) For such other relief as the Court may deem equitable and just.

**CERTIFICATION PURSUANT TO R. 4:5-1**

I certify that the matter in controversy is not the subject of any other action or arbitration proceeding now or contemplated and that no other parties should be joined in this action.

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to *R. 4:25-4*, Brock D. Russell, Esquire is hereby designated as trial counsel in the above captioned litigation on behalf of the plaintiffs, City of Millville.



By \_\_\_\_\_  
Brock D. Russell, Esquire

Dated: 11-3-20

## Civil Case Information Statement

Case Details: CUMBERLAND Civil Part Docket# L-000677-20

Case Caption: MILLVILLE CITY VS DESANTIS ANTHONY

Case Type: REAL PROPERTY

Case Initiation Date: 11/03/2020

Document Type: Complaint

Attorney Name: BROCK D RUSSELL

Jury Demand: NONE

Firm Name: BROCK D. RUSSELL, LLC

Is this a professional malpractice case? NO

Address: 706 N. HIGH ST P.O BOX 290

Related cases pending: NO

MILLVILLE NJ 08332

If yes, list docket numbers:

Phone: 8568250728

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Name of Party: PLAINTIFF : MILLVILLE, CITY OF

Name of Defendant's Primary Insurance Company

Are sexual abuse claims alleged by: CITY OF MILLVILLE? NO

(if known): Unknown

**THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE**  
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? YES

If yes, is that relationship: Business

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

11/03/2020

Dated

/s/ BROCK D RUSSELL

Signed