

STATE OF MICHIGAN
COURT OF APPEALS

TRES GALANES CORPORATION and DOS
MAS GALANES CORPORATION,

UNPUBLISHED
March 10, 2009

Plaintiffs/Counterdefendants-
Appellants/Cross-Appellees,

v

VICTOR CORDOBA, YVONNE CORDOBA,
and EL ZOCALO, INC.,

No. 282643
Wayne Circuit Court
LC No. 04-412495-CH

Defendants/Counterplaintiffs/Cross-
Plaintiffs-Appellees/Cross-
Appellants

and

CITY OF DETROIT and HENRY HAGOOD,

Defendants/Cross-Defendants-
Appellees,

and

INTERNAL REVENUE SERVICE, EXPORT
LIQUOR SALES, INC., and JAMES P. FOX,

Defendants/Cross-Defendants.

Before: Jansen, P.J., and Borrello and Stephens, JJ.

PER CURIAM.

Plaintiffs appeal by right the circuit court's order granting summary disposition in favor of defendants with respect to their claims of tortious interference with a contractual relationship, slander of title, and unlawful interference with a possessory interest under MCL 600.2918. Defendants Victor Cordoba, Yvonne Cordoba, and El Zocalo, Inc. (the "Cordoba defendants") cross-appeal the circuit court's grant of summary disposition in favor of plaintiffs with respect to their counterclaim for trespass. We affirm in all respects.

With respect to the tortious interference claim, plaintiffs alleged in their complaint that the Cordoba defendants had blocked access to the parcel of real property at issue in this case (“the property”) with chains and concrete barriers, had chased plaintiffs’ customers off the property, and had repeatedly told plaintiffs’ customers that they could not park their cars on the property. Plaintiffs alleged that this conduct constituted tortious interference with their 2001-2003 lease agreement with the City. We conclude that the circuit court properly dismissed plaintiffs’ tortious interference claim because there was simply no evidence that the Cordoba defendants induced the City of Detroit to breach the lease agreement. Indeed, counsel for plaintiffs admitted at oral argument before this Court that the City of Detroit had not breached the lease agreement with plaintiffs. Accordingly, the circuit court properly dismissed plaintiffs’ claim of tortious interference with a contractual relationship. *Badiee v Brighton Area Schools*, 265 Mich App 343, 366-367; 695 NW2d 521 (2005); *CMI International, Inc v Internet International Corp*, 251 Mich App 125, 131; 649 NW2d 808 (2002).

We also conclude that the circuit court properly dismissed plaintiffs’ statutory claim under MCL 600.2918. Subsection 2 of MCL 600.2918 applies to “[a]ny tenant in possession of premises whose possessory interest has been unlawfully interfered with by the owner, lessor, licensor, or their agents . . .” MCL 600.2918(2). Plaintiffs’ lessor, who also owned the property, was the City of Detroit. It is undisputed that the City of Detroit did not interfere with plaintiffs’ possessory interest. Therefore, plaintiffs could not have stated a legally cognizable claim under MCL 600.2918(2). Plaintiffs argue that they did, however, state a cognizable claim for relief under MCL 600.2918(1). But even assuming *arguendo* that subsection 1 of MCL 600.2918 applies outside the landlord-tenant context, we disagree with plaintiffs’ assertion in this regard. While the evidence did show that some of plaintiffs’ customers were chased off or kept off the property, there was no evidence that plaintiffs, themselves, were “ejected or put out of any lands or tenements in a forcible and unlawful manner” by the Cordoba defendants, or that plaintiffs, themselves, were “held and kept out” by the Cordoba defendants. MCL 600.2918(1). Plaintiffs’ statutory claim was therefore properly dismissed.

Plaintiffs lastly argue that the circuit court improperly dismissed their claim for slander of title. But counsel made clear during oral argument before this Court that plaintiffs were affirmatively waiving their argument that the circuit court erred by dismissing their slander of title claim. Therefore, we decline to consider it on appeal. See *Larsen v Field*, 219 Mich 440, 441; 189 NW 21 (1922).

On cross-appeal, the Cordoba defendants argue that the circuit court erred by dismissing their counterclaim for trespass. The counterclaim alleged that plaintiffs had trespassed on an unrelated parcel of real property that was owned by the Cordoba defendants. But the evidence showed that the persons actually trespassing on the parcel had been plaintiffs’ customers and a garbage truck that came weekly to empty plaintiffs’ dumpster. The circuit court found that a trespass had occurred, but that it was “trivial, too trivial for me to send to a jury.”

The circuit court’s reasoning in this regard was improper because the traditional rule is that nominal damages are presumed to flow from every trespass upon private property, no matter how slight. *Giddings v Rogalewski*, 192 Mich 319, 326; 158 NW 951 (1916). However we conclude that the circuit court nonetheless reached the correct result in dismissing the counterclaim. The Cordoba defendants did not sue plaintiffs’ individual customers or the owner of the trespassing garbage truck. There was no evidence that plaintiffs had personally trespassed

on the Cordoba defendants' land, that plaintiffs had directed or instructed their customers and garbage company to trespass on the land, or that plaintiffs had even been aware of these trespasses. In short, there was no factual support for the proposition that plaintiffs had directed, encouraged, instructed, advised, or otherwise caused their customers and garbage company to trespass on the Cordoba defendants' land. Plaintiffs were therefore entitled to judgment as a matter of law with respect to the counterclaim for trespass. 87 CJS, Trespass, § 32, p 691. The counterclaim was properly dismissed. We will not reverse when the circuit court has reached the correct result, even if it has done so for the wrong reasons. *Netter v Bowman*, 272 Mich App 289, 308; 725 NW2d 353 (2006).

In light of our conclusions above, it is unnecessary to address whether the circuit court erred by dismissing defendants City of Detroit and Henry Hagood from this action.

Affirmed.

/s/ Kathleen Jansen
/s/ Stephen L. Borrello
/s/ Cynthia Diane Stephens