

STATE OF MICHIGAN
COURT OF APPEALS

LOFGRENS ENTERPRISES, INC.,

Plaintiff-Appellant/Cross-Appellee,

v

FLEETWOOD HOMES OF INDIANA,

Defendant-Appellee/Cross-
Appellant.

UNPUBLISHED
October 30, 2003

No. 240135
Cheboygan Circuit Court
LC No. 00-006774-CK

Before: Meter, P.J., and Saad and Schuette, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's judgment denying plaintiff's claim that it revoked acceptance of four¹ modular homes it purchased from defendant. Defendant cross-appeals the trial court's decision disallowing defendant's expert witness testimony regarding the cause of alleged defects in the modular homes. This case arose when plaintiff, a modular home dealer, purchased four modular homes from defendant, a modular home manufacturer, and then attempted to revoke its acceptance eleven months later. We affirm.

Plaintiff first argues that the trial court erred in finding that eleven months was too long to delay revocation of acceptance. We disagree. We review a trial court's legal conclusions de novo, see *Chapdelaine v Sochock*, 247 Mich App 167, 169; 635 NW2d 339 (2001), but the trial court's factual findings are entitled to deference and should not be disturbed unless we are "convinced that [we] would have reached a different result had [we] been in the lower court's position." *Geneva v Ritter*, 132 Mich App 206, 209; 347 NW2d 207 (1984).

A buyer is not entitled to relief when the nonconformity of goods does not substantially impair the value of the goods to the buyer. See MCL 440.2608(1). Also, a buyer must revoke acceptance within a reasonable amount of time after the discovery of the defects. MCL 440.2608(2). In this case, there was no substantial impairment to plaintiff because it was able to sell at least one of the homes – indicating that the homes were sellable. Also, many of the alleged defects were due to plaintiff's negligent handling and maintenance of the homes while

¹ The parties do not appeal the trial court's award of \$500 to plaintiff as costs incurred in the sale of a fifth modular home.

they were situated on plaintiff's lot; the homes were no longer in the condition that they were in at the time of their delivery as required under MCL 440.2608(2). Therefore, the trial court did not err when it found that plaintiff's delay of eleven months was too long for a revocation of acceptance. See, e.g., *MacLaren v Dermody White Truck Co*, 9 Mich App 402, 405-407; 157 NW2d 459 (1968).

Plaintiff also argues that the trial court erred in concluding that there was no evidence that the seller made further assurances after July 1999 that extended the time for an appropriate revocation of acceptance. Plaintiff characterized a letter sent to it by defendant on August 2, 1999, to inform plaintiff of defendant's plans to consolidate its operations as a letter of forbearance that operated as a reasonable assurance to delay plaintiff's revocation of acceptance. Plaintiff mischaracterizes this letter. The August 2, 1999, letter did not request forbearance from plaintiff; no promises were made nor was consideration given, and there was no acceptance on plaintiff's part of defendant's alleged request for forbearance. The purpose of defendant's letter was not to ask for forbearance on the part of its customers but rather to apprise them of its change in operations.

Moreover, we disagree with plaintiff's argument that certain testimony by Tammie Lofgren evidenced that defendant gave reasonable assurances to plaintiff. Indeed, we disagree that defendant's alleged act of asking for a list of repairs amounted to an assurance that the repairs would be done and extended the time for revocation of acceptance. The trial court simply did not err when it concluded that there was no evidence on the record to establish that defendant made further assurances to plaintiff after July 1999 that would have induced plaintiff to delay discovery of the defects and delay the tendering of a revocation of acceptance.

Because we conclude that the trial court did not err in its decision on the merits of the case, we need not address defendant's cross-appeal.

Affirmed.

/s/ Patrick M. Meter
/s/ Henry William Saad
/s/ Bill Schuette