Circuit Court for Montgomery County
Case No. 455248-V

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1989

September Term, 2019

GAYNELLE HENDERSON

v.

PRINCESS MHOON DANCE INSTITUTE, LLC.

Nazarian,
Leahy,
Friedman.

JJ.

Opinion by Leahy, J.

Filed: February 23, 2021

Appellant, Gaynelle Henderson ("Ms. Henderson"), appeals from an order of the Circuit Court for Montgomery County dismissing her counterclaim against Appellee, Princess Mhoon Dance Institute, LLC ("Mhoon Dance"), with prejudice. In this appeal, Ms. Henderson presents three questions for our review.[1]

The first question, which is somewhat unusual, concerns the trial court's denial of Ms. Henderson's motion for reconsideration. Ms. Henderson and Mr. Lance Bailey, as defendants/counter-plaintiffs, filed a motion to dismiss the complaint without prejudice, which was granted. Defendants/counter-plaintiffs then filed a motion to reconsider the court's ruling in their favor. They asked the court to reinstate the case so that they could file a motion for summary judgment instead. The trial court denied their request. Before this Court, Ms. Henderson contends the court erred in denying the motion to reconsider and requests that we consider "[w]hether the trial court erred in not converting the motion to dismiss to a motion for summary judgment when [defendants/counter-plaintiffs] alleged facts in their motion not included in [Mhoon Dance's] complaint[?]"

The second question on appeal concerns the counterclaim, which the court dismissed after Ms. Henderson failed to appear for trial.[2] Ms. Henderson asks us

[1] The underlying complaint for breach of a commercial lease agreement named Ms. Gaynelle Henderson and Mr. Lance Bailey as defendants because they both signed the lease agreement as owners of the commercial property that Mhoon Dance was leasing. Mr. Bailey did not join Ms. Henderson in this appeal.

[2] Mr. Bailey was present in the courtroom earlier on the day of trial but failed to return to address the counterclaim.

"[w]hether the court abused its discretion by not continuing trial for good cause, so that Ms. Henderson could attend[?]"

Ms. Henderson raises in her third question, for the first time on appeal, the issue of "[w]hether the court lacked subject matter jurisdiction to hear this dispute."

For the reasons discussed below, we conclude that the trial court, having subject matter jurisdiction over the underlying dispute, did not err or abuse its discretion in opting not to convert the motion to dismiss submitted by defendants/counter-plaintiffs to a motion for summary judgment. Additionally, the court did not commit error in choosing to dismiss defendants/counter-plaintiffs' counterclaim because the party essential to litigating the claim failed to attend the hearing on the matter. Accordingly, we affirm the judgment of the circuit court.

BACKGROUND

Princess Mhoon's Complaint

On September 25, 2018, Princess Mhoon, the owner of Mhoon Dance, filed a complaint on behalf of the company, without counsel, against Mr. Lance Bailey and Ms. Gaynelle Henderson, in the Circuit Court for Montgomery County. The complaint alleged that Mr. Lance Bailey and Ms. Gaynelle Henderson breached their commercial lease agreement with Mhoon Dance for property located at 7961 Eastern Avenue, Silver Spring, Maryland. The complaint further stated that the parties entered into a five-year lease agreement beginning in June 2017. In the complaint, Princess Mhoon stated that she informed Mr. Bailey and Ms. Henderson of numerous issues associated with the commercial property, dating back to Fall 2017, but was largely ignored. According to the

complaint, "[t]he following constitute the issues caused by the [defendants/counter-plaintiffs'] breach of the Lease Agreement": (1) HVAC issues; (2) consistent leaking from radiators that could lead to potential safety issues and water damage on first floor; (3) physical health hazards, such as mold and falling ceiling tiles; (4) cracked and dirty windows; (5) trash cans in front of business; (6) poor elevator maintenance; (7) inconsistent electricity; (8) structural issues caused by rotting wood and mold; and (9) a lack of exterior and interior landscape maintenance. Princess Mhoon sought damages in the amount of $360,000.00 and requested that the court allow the company to remain on the premises while researching potential relocation opportunities.

After the complaint was filed, a scheduling order was entered on September 27, 2018 in accordance with Maryland Rule 2-504, along with an order for a mandatory settlement conference between the parties to be held on July 11, 2019. According to the scheduling order, the pretrial hearing also was set for July 11, with a trial date between August 7, 2019 and November 15, 2019, if needed.

Answer and Counterclaim

On January 15, 2019, the defendants moved for an extension to file a response to Mhoon Dance's complaint after their long-time counsel had fallen ill. On January 25, 2019, the defendants filed an answer and a counterclaim asserting breach of contract. The counterclaim alleged that, on or around June 20, 2017, the defendants/counter-plaintiffs entered into a lease agreement with Mhoon Dance allowing the company to lease the commercial property located at 7961 Eastern Avenue, Silver Spring, Maryland. Under the lease, Mhoon Dance was required to pay monthly rent of $6,010. According to the

counterclaim, Mhoon Dance breached the lease when the company failed to make payments from May 2018 through January 2019. The counterclaim related that the defendants/counter-plaintiffs had filed a separate action in the District Court to repossess the property in November 2018, and, soon thereafter, Mhoon Dance vacated the property in January of 2019.

The counterclaim sought, as damages, past-due rent from June 2018 through December 2018 in the amount of $49,166, as well as the accelerated remainder of the rent due under the lease in the amount of $273,650. The counterclaim also requested late fees in the amount of $2,458 for two returned checks in the amounts of $200 and $25, reimbursement for moving expenses, attorney's fees, and any additional damages and court costs that the court deemed necessary.

Counsel for Mhoon Dance

The pro se complaint, filed on September 25, 2018, was signed and submitted by Princess Mhoon as the "sole proprietor" of Princess Mhoon Dance Institute, LLC. Counsel for Mhoon Dance entered his appearance for the first time on March 4, 2019. On April 24, 2019, Mhoon Dance filed its answer, through counsel, to Mr. Bailey and Ms. Henderson's counterclaim. In the answer, Mhoon Dance established its intention to be present at trial and asserted that the company did not commit any of the wrongs alleged in the counterclaim. Furthermore, the company generally denied all liability related to the claims presented by defendants/counter-plaintiffs.

On May 14, 2019, Mhoon Dance's counsel sent a "Notice of Termination" to the company. The letter informed Mhoon Dance that the company "should consider hiring

another attorney to enter an appearance on your behalf or notify the clerk of the Court in writing of your intention to proceed in proper person." (Emphasis in original). On May 29, 2019, counsel for Mhoon Dance filed a motion to withdraw his appearance pursuant to Maryland Rule 2-132. The court granted counsel's motion to withdraw his appearance and then sent a "NOTICE TO EMPLOY NEW COUNSEL" to Mhoon Dance. The notice read, in pertinent part:

> It is apparent from the record in the above entitled case that you are currently not represented by counsel.
>
> You are hereby notified that your failure to have new counsel enter his/her appearance in this case within fifteen (15) days after service upon you of this notice shall not be grounds for postponement. You are warned that without counsel to protect your interests, you risk a judgment by default or dismissal of the case and assessment of court costs against you.

Scheduling Issues

On July 9, 2019, defendants/counter-plaintiffs moved to postpone the settlement and pre-trial conference because they planned to file a motion to dismiss and because Mhoon Dance was still not represented by counsel. On July 15, the motion was granted, and the new date was set for August 22. According to the docket, on August 22 at the pre-trial conference, which Ms. Henderson attended, the court set the case for trial on October 28. The record also contains a "Notice of Pending Events" dated August 27, confirming, once again, that the trial was set for October 28, 2019.

Motion to Dismiss

Meanwhile, on July 30, 2019, the defendants/counter-plaintiffs filed a motion to dismiss Mhoon Dance's complaint for failure to state a claim upon which relief can be

granted. In support of the motion, they argued that, under Maryland law, a company pursuing litigation must file a complaint by and through counsel. They asserted that the complaint was not filed by counsel and that Mhoon Dance's recent counsel ended representation after filing the answer to the counterclaim—*the only pleading that was properly filed*. Furthermore, the defendants/counter-plaintiffs asserted that Maryland does not recognize an implied warranty of habitability in commercial leases. Consequently, they requested that Mhoon Dance's complaint be dismissed and that the court award them court costs and reasonable fees.

On September 9, 2019, the court entered an order summarily granting the motion to dismiss, without prejudice, and informed Mhoon Dance that it "may file and serve an Amended Complaint within 10 days of entry of this Order, consistent with Md. Rule 2-131 (1) and Md. Rule 1-321[.]" Mhoon Dance did not file an amended complaint.

On October 2, 2019, the defendants/counter-plaintiffs filed a motion to reconsider the court's order granting their motion to dismiss. Apparently, they were concerned that the counterclaim was dismissed by the court together with the complaint under the court's order granting their motion to dismiss. In their motion for reconsideration, the defendants/counter-plaintiffs asserted:

> Defendant[s/counter-plaintiffs'] counsel sought to dismiss [Mhoon Dance's] complaint, while still pursuing counter-complaint against [Mhoon Dance]. Counsel respectfully requests that the case is reinstated, so that counsel can seek a proper motion for summary judgment.

They further asserted that Mhoon Dance failed to timely respond to the motion to dismiss. On October 23, 2019, the circuit court entered its order denying the motion and clarifying

that the counterclaim against Mhoon Dance was still pending before the court and "will proceed to trial on October 28, 2019."

October 28, 2019 Proceeding

On October 28, 2019, the trial judge, reviewing the record, noted that, because Mhoon Dance did not file an amended complaint, the complaint was dismissed, and the counterclaim was the only matter before the court. The judge then stated that the trial was delayed earlier that same day because counsel for both parties arrived late.[3] The judge explained that the hearing would not be postponed because it had been on the calendar for months, but the judge allowed counsel to contact Mr. Bailey and offered to wait for Mr. Bailey to return before proceeding with the trial. The judge warned counsel that if his client did not return, she would dismiss the counterclaim with prejudice. Counsel confirmed that he conveyed the court's warning to Mr. Bailey; however, Mr. Bailey did not to return to court.

The judge subsequently announced on the record:

> All right, well, the defendant, having had an opportunity to be here and to present the counter-complaint, having left and not returned, even when advised of the consequences, and it now being 12:30 p.m., the [c]ourt will dismiss the counter-claim with prejudice. That closes the whole case. The case will be dismissed in its entirety.

[3] Ms. Henderson was not present in the court at all on October 28, 2019. Mr. Bailey was present earlier in the day but had left the court.

On November 5, 2019, the court entered its order granting Mhoon Dance's oral motion to dismiss the counterclaim, with prejudice, and Ms. Henderson noted this appeal on November 26, 2019.

DISCUSSION

I.

Converting the Motion to Dismiss to a Motion for Summary Judgment

a. Parties' Contentions

Ms. Henderson contends that the trial court erred by failing to convert her motion to dismiss for failure to state a claim upon which relief can be granted to a motion for summary judgment pursuant to Maryland Rule 2-322(c). She argues, for the first time on appeal, that the motion to dismiss should have been converted to a motion for summary judgment because she and Mr. Bailey alleged matters outside of the complaint. Specifically, the motion to dismiss asserted that Mhoon Dance violated Maryland Rule 2-131(a) and (b) by filing a complaint without counsel. Ms. Henderson claims, therefore, "[Mhoon Dance's] legal ability to represent [it]self is not a matter concerning breach [of] contract that [the] pleading alleges. This was submitted in the motion to dismiss as new material matter outside of [Mhoon Dance's] pleading[.]" According to Ms. Henderson, the court ruled on the motion to dismiss without explanation and without excluding material offered, "notwithstanding the additional fact of [Mhoon Dance] operating without counsel" outside the complaint. Relying on *Lewis v. Baltimore Convention Center*, 231 Md. App. 144 (2016) and *Worsham v. Ehrlich*, 181 Md. App. 711 (2008), Ms. Henderson argues that

we must presume the court considered the additional material in its ruling and find that the court should have converted the motion to dismiss to a motion for summary judgment.

To the contrary, Mhoon Dance contends the motion to dismiss submitted by Ms. Henderson and Mr. Baily did not present any "factual" allegations outside of the complaint. According to Mhoon Dance, the fact that it was a corporate entity not represented by counsel when the complaint was filed is a procedural issue, not a factual issue. Mhoon Dance further asserts that, even though the motion to dismiss challenged the claims directly,[4] the trial court decided the motion on the procedural issue and gave Mhoon Dance ten (10) days to secure counsel and file an amended complaint.

b. Analysis

Maryland Rule 2-131 requires a corporation to be represented by counsel in the circuit court and "reflects a long history of legislation prohibiting lay persons from practicing law except in those situations in which they are acting *pro se*." *Turkey Point Prop. Owners' Ass'n, Inc. v. Anderson,* 106 Md. App. 710, 715 (1995).[5]

[4] The motion also averred that the complaint should be dismissed because the claims were predicated on legal protections designated for residential tenants, and Princess Mhoon was a commercial tenant.

[5] Section 10-206 of the Business Occupations and Professions Article permits a corporate officer or person to represent a corporation or landlord in very limited circumstances not present in this case. Maryland Code (1989, 2010 Repl. Vol., 2017 Supp.), Bus. Occ. & Prof. Article, § 10-206. For example, under § 10-206(b)(1), a "person" may "represent[] a landlord in a summary ejectment or a rent escrow proceeding in the *District Court of Maryland*." (Emphasis added).

> Section 2-131 (a) of the rule states:
>
> **(a) By an Attorney or in Proper Person.** Except as otherwise provided by rule or statute: (1) an individual may enter an appearance by an attorney or in proper person and (2) **a person other than an individual may enter an appearance only by an attorney.**

(Underscored emphasis added). We have instructed that limited liability companies, such as Mhoon Dance, are not considered "individuals" under the rule:

> [u]nder Maryland Rule 2-131(a)(2), "a person other than an individual may enter an appearance only by an attorney." A person, as defined by Maryland Rule 1-202(t), "includes any individual, general or limited partnership, joint stock company, unincorporated association or society, municipal or other corporation, incorporated association, limited liability partnership, limited liability company, . . . or any government entity." **Based on these Rules . . . LLCs [] "must be represented by [counsel] in civil proceedings in a circuit court."** *Finch v. LVNV Funding, LLC*, 212 Md. App. 748, 755 n.3, 71 A.3d 193 (2013).

Peterson v. Evapco, Inc., 238 Md. App. 1, 61 (2018) (emphasis added).

Before turning to the merits of the instant appeal, we quickly review the relevant language from Maryland Rule 2-322 governing preliminary motions:

> If, on **a motion to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment** and disposed of as provided in Rule 2-501, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 2-501.

Md. Rule 2-322(c) (emphasis added). We have held:

> [w]hen reviewing the grant of either a motion to dismiss or a motion for summary judgment, an appellate court must determine whether the trial court was legally correct. But this determination depends on the nature of the relief given. **The grant of a motion to dismiss is proper if the complaint does not disclose, on its face, a legally sufficient cause of action.**

Hrehorovich v. Harbor Hosp. Ctr., Inc., 93 Md. App. 772, 785 (1992) (emphasis added) (citations omitted).

In the instant case, Ms. Henderson and Mr. Bailey filed a motion to dismiss Mhoon Dance's complaint on July 30, 2019, for failure to state a claim upon which relief can be granted. In support of the motion, Ms. Henderson argued that under Maryland law, a company pursuing litigation must file a complaint by and through counsel. The underlying complaint was signed and submitted on September 25, 2018, by Princess Mhoon, the owner and "sole proprietor" of Mhoon Dance, without counsel. These facts are apparent on the face of the complaint. No additional evidence was provided or required to support the contention that Mhoon Dance violated Maryland Rule 2-131 (a)(b) by filing a complaint without counsel. Accordingly, the court was correct to grant the motion to dismiss, without prejudice, and to give the company 10 days to hire an attorney and file an amended complaint.[6]

The motion for reconsideration did not allege, as Ms. Henderson now does on appeal, that the court considered material outside the complaint in granting the motion to dismiss. The motion for reconsideration also did not request the court to convert the motion to a motion for summary judgment. Instead, the court was presented with a strange request,

[6] As related above, Mhoon Dance hired an attorney who briefly entered his appearance on March 4, 2019, filed an answer to the counterclaim, and then filed a motion to withdraw as counsel soon after. The motion to withdraw was granted by the court. Therefore, when Ms. Henderson and Mr. Bailey moved to dismiss the complaint in circuit court on July 30, Mhoon Dance did not have counsel, and the court did not require additional evidence in order to be aware of that fact.

by *the successful party*, to *reinstate* the case, "so that counsel can seek a proper motion for summary judgment." It would have been an abuse of discretion to grant that motion.

In her arguments on appeal, Ms. Henderson heavily relies on *Worsham v. Ehrlich*, 181 Md. App. 711 (2008), but that case contributes little to our analysis because the facts differ greatly from those presented here. Mr. Worsham filed his original complaint in the circuit court against multiple defendants. *Id.* at 715. Soon after the initial complaint was filed, an array of pleadings were cross-filed by the defendants and by Mr. Worsham.. *Id.* at 715-717. Those pleadings included an amended complaint and partial motion for summary judgment with exhibits attached, filed by Mr. Worsham. *Id.* Multiple defendants responded with pleadings, including motions requesting that the court dismiss the matter. *Id.* The circuit court held a hearing on three of the defendants' motions to dismiss and on Mr. Worsham's motion for partial summary judgment. *Id.* at 717. After the hearing, the court granted the defendants' motions to dismiss. *Id.* In its opinion, the circuit court acknowledged that it considered matters outside of the complaint, such as the exhibits and affidavits that were submitted. *Id.*

On appeal, we held that the motion to dismiss should have been converted to a motion for summary judgment because "[g]enerally the introduction of affidavits of fact will operate to convert a motion to dismiss into a motion for summary judgment." *Id.* at 723. We noted that there was "no indication on the record that the [circuit] court excluded the facts submitted to it through the exhibit in ruling on the motions to dismiss; thus, we must assume that they were considered." *Id.* Consequently, we treated the trial court's grant of the motion to dismiss as a grant of summary judgment. *Id.*

Comparing the instant case to *Worsham* recalls the idiom; comparing apples to oranges. Here, the fact that Mhoon Dance filed the complaint without an attorney was evident on the face of the complaint, and there were no affidavits or additional materials submitted alongside the motion to dismiss. Further, unlike the circumstances in *Worsham*, there was no partial motion for summary judgment filed in this case, nor was there a request to convert the motion to dismiss to a motion for summary judgment. Accordingly, for all of the reasons recited above, we hold that the circuit court did not err by granting the motion to dismiss without prejudice.

II.

Continuing Trial

Ms. Henderson argues that the judge abused her discretion by not continuing the trial for good cause under the circumstances. She contends that the court failed to consider the allegation that she and Mr. Bailey were misinformed by the civil clerk that the court had dismissed the entire case, including the counterclaim, and that was why she was unaware that the trial on the counterclaim was still scheduled for October 28, 2019.[7]

Mhoon Dance highlights that counsel for Ms. Henderson and Mr. Bailey were present in the circuit court on October 28, 2019—the trial date that had been on the schedule for months. Even with the court's offer to temporarily delay the trial, *both* Mr.

[7] We note that there is not a scintilla of evidence in the record to support the contention that the counter-plaintiffs were provided with incorrect information by the civil clerk, nor does the record disclose that the issue was presented to the circuit court. Accordingly, pursuant to Maryland Rule 8-131, we will not address this issue in our analysis.

Bailey and Ms. Henderson failed to show up that afternoon. Mr. Bailey had been present in the courtroom earlier and provided no explanation for why he did not return. According to Mhoon Dance, "[Mr.] Bailey ran the operation of the rental property and was a co-owner and could have testified without [Ms. Henderson's] presence."

Mhoon Dance asserts: "[t]he reliance on the supposed representations of the civil clerk also belies logic when multiple [d]ocket [e]ntries clearly reflect that [the counter-plaintiffs'] case was not dismissed. Moreover, simply perusing the Maryland Rules would reveal that dismissal of the [c]omplaint does not dismiss the [c]ounter[-c]omplaint." Mhoon Dance adds that we should not consider the alleged misinformation disseminated by the civil clerk raised for the first time on appeal.

Mhoon Dance's last argument—but clearly not the least—is that "[Ms. Henderson] failed to make a request for a postponement, including filing a motion for a continuance or even asking for a continuance on the day of [t]rial."[8]

Maryland Rule 2-508 states that, "[o]n motion of any party or on its own initiative, the court may continue a trial or other proceeding as justice may require." Generally, an appellate court will not disturb a ruling on a motion to continue "unless [discretion is] arbitrarily or prejudicially exercised." *Neustadter v. Holy Cross Hosp. of Silver Spring, Inc.*, 418 Md. 231, 240 (2011) (citing *Dart Drug Corp. v. Hechinger Co.*, 272 Md. 15, 28 (1974)). The Maryland Court of Appeals has established that trial courts have discretion

[8] The record is not clear whether counsel for defendants/counter-plaintiffs requested a postponement. The transcript shows that at the October 28 proceeding the judge said: "And I did indicate to you in chambers that I was not going to postpone this matter, because it's been on the trial calendar too long."

in how to conduct a hearing or trial; thus, whether the trial court acted improperly is reviewed under the abuse of discretion standard. *Touzeau v. Deffinbaugh*, 394 Md. 654, 669 (2006). An abuse of discretion is defined as "discretion manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons." *Id.* (quoting *Jenkins v. City of College Park*, 379 Md. 142, 165 (2003)).

It should be pellucid that, where the counter-plaintiffs failed to appear for a trial that had been scheduled by the parties and the court months earlier, we will not find the court abused its discretion for not continuing the trial if no request for a continuance was made. Given that the record is unclear as to whether a request for continuance was made, we shall assume, for the sake of argument, that the request was made.

Ms. Henderson seems to be saying that, because she was a party, the court was required to postpone the case when she failed to appear. Our rules and caselaw do not countenance Ms. Henderson's argument. *See Neustadter*, 418 Md. at 242-43 ("This Court has consistently affirmed denials of motions to continue when litigants have failed to exercise due diligence in preparing for trial, in the absence of unforeseen circumstances to cause surprise that could not have been reasonably mitigated, where untimely requests were made, where procedural rules were ignored, where attorneys failed to adequately prepare for trial, where a witness was missing, and where a litigant's chosen counsel was absent but alternative counsel was available."); *Touzeau*, 394 Md. at 678 (finding no abuse of discretion when the trial court denied a request to continue where a self-represented litigant did not exercise due diligence to obtain counsel until five days before trial and failed to demonstrate that hardship in obtaining counsel was an unanticipated event); *Gorman v.*

Sabo, 210 Md. 155, 167 (1956) (holding, in the context of denying a motion for a continuance, that "[t]he right of a party to a cause to be present throughout the trial is not an absolute right in a civil case and in the discretion of the court, with due regard to the circumstances as to prejudice, the case may be tried or finished when a party, including a defendant, is absent.").

To be sure, the Court of Appeals has found that the denial of a motion to continue is reversible in specific circumstances, such as when:

> [The Court finds] that it would be an abuse of discretion for a trial judge to deny a continuance when the continuance was mandated by law, *see Mead v. Tydings*, 133 Md. 608, 612, 105 A. 863, 864 (1919), or when counsel was taken by surprise by an unforeseen event at trial, when he had acted diligently to prepare for trial, *Plank v. Summers*, 205 Md. 598, 604-05, 109 A.2d 914, 916-17 (1954), or, in the face of an unforeseen event, counsel had acted with diligence to mitigate the effects of the surprise, *Thanos v. Mitchell*, 220 Md. 389, 392-93, 152 A.2d 833, 834-35 (1959).

Neustadter, 418 Md. at 242-243 (citing *Touzeau*, 394 Md. at 669-670).

In the instant case, the court was not presented with any evidence to explain why Ms. Henderson or Mr. Bailey did not appear for trial. The parties participated in setting the trial date with the court at the pre-trial conference months earlier, and both the docket and the notices that the parties received subsequently reaffirmed that date. In fact, Mr. Bailey was at the courthouse on October 28, 2019 but, for unexplained reasons, failed to return and appear for trial. The court instructed counsel that if Mr. Bailey did not return, the court would dismiss the counterclaim with prejudice. Counsel confirmed that the court's message was conveyed to Mr. Bailey.

We discern no abuse of discretion here.

III.

The Trial Court's Jurisdiction

Ms. Henderson argues that the trial court lacked subject matter jurisdiction to originally hear this case. She specifically asserts that pursuant to Maryland Code (1974, 2013 Repl. Vol., 2017 Supp.), Courts & Judicial Proceedings Article ("CJP"), § 4-401, the District Court has exclusive and original jurisdiction over all actions involving landlords and tenants. Relying on this principle, Ms. Henderson argues that she and Mr. Bailey originally filed an action in Montgomery County District Court for repossession of property for failure to pay rent under the lease agreement. Princess Mhoon then initiated her complaint in the circuit court, and Ms. Henderson argues that she filed the counterclaim "to consolidate cases in the interest of judicial economy." Ms. Henderson argues on appeal, and for the first time, that the entire case should have been litigated in district court. She relies on *Greenbelt Consumer Services, Inc. v. Acme Markets*, Inc., 272 Md. 222 (1974) and *Williams v. Housing Authority of Baltimore City*, 361 Md. 143 (2000) to support her contention that we should overturn the circuit court's dismissal with prejudice so that this case may be heard in district court.

Mhoon Dance asserts that Ms. Henderson failed to timely raise the issue of subject matter jurisdiction before the trial court. Nevertheless, Mhoon Dance contends, without citation to authority, that the breach of contract claim was properly within the jurisdiction of the circuit court. Therefore, we are, once again, left to recite the law neglected in the parties' briefing.

Even though Ms. Henderson's challenge to the circuit court's jurisdiction was not presented below, we must address the issue in order to discern whether the circuit court properly dismissed the counterclaim *with prejudice*. We start with the statutory provisions that set the District Court of Maryland's jurisdiction over certain matters. Particularly relevant here is CJP § 4-401, which states:

> Except as provided in § 4-402 of this subtitle, and subject to the venue provisions of Title 6 of this article, the District Court has exclusive original civil jurisdiction in:
>
> * * *
>
> (4) An action involving landlord and tenant, distraint, or wrongful detainer, regardless of the amount involved[. . .]

Ms. Henderson contends this statute precluded the circuit court from exercising subject matter jurisdiction over the complaint filed by Mhoon Dance for breach of contract. However, the cases on which Ms. Henderson relies in her briefing—*Greenbelt Consumer Services, Inc. v. Acme Markets, Inc.*, 272 Md. 222 (1974) and *Williams v. Housing Authority of Baltimore City*, 361 Md. 143 (2000)—explain why she is incorrect and why the circuit court did have subject matter jurisdiction over the breach of contract claim as well as the counter-claim that she filed together with Mr. Bailey.

In *Greenbelt*, the action originated in the District Court of Maryland when the sublessor, Acme Markets, Inc., filed a Landlord/Tenant breach of contract claim against the petitioner and sublessee, Greenbelt Consumer Services, Inc. 272 Md. at 223. The landlord was not attempting to recover possession of the property, but rather the landlord sought to recover $12,000 in unpaid rent alleged to be due it by the tenant. *Id.* The issue

presented before the Court of Appeals was whether the District Court, and then the Circuit Court on appeal, lacked subject matter jurisdiction to resolve the dispute presented. *Id.*

The Court discussed the intentions of the General Assembly in its establishment of CJP § 4-401(4). *Id.* at 229. The Court discerned that the intent of the General Assembly was that the District Court of Maryland have exclusive jurisdiction over possessory in rem or quasi in rem actions only. *Id.* The Court reasoned that the purpose of the statute was to give landlords a method by which they could rapidly and inexpensively obtain repossession of their premises or to seek security for rent due from personalty. *Id.*

Therefore, when applying the Court's analysis of legislative intent to the facts in *Greenbelt*, the Court held that the breach of contract action to collect unpaid rent was properly within the subject matter jurisdiction of the circuit court. *Id.* at 230. The Court explained:

> the actions encompassed by [] 4-401(4) of [CJP], in which the District Court is given exclusive original jurisdiction regardless of the amount involved, refers to landlord and tenant actions as authorized by s 8-401 of the Real Property Article; distraint actions, as authorized by ss 8-301 to s 8-332 of the Real Property Article; and actions for forcible entry and detainer, including those for a tenant holding over, as authorized by the British statutes and s 8-402(b) of the Real Property Article. This conclusion is reinforced by the significant fact that each of these Real Property Article provisions specifically mandates that the actions described therein are to be brought in the District Court where the property is situated.

272 Md. at 230.

Years later in *Williams*, the Court of Appeals further explained its holding in *Greenbelt*:

> [t]he plaintiff's broad reading of the phrase "action involving landlord and tenant," we observed, would not only make the separate mention of distraint,

> forcible entry, and detainer superfluous but would require that all actions that happen to involve a landlord and a tenant be brought in the District Court, irrespective of the nature of the action or the amount in controversy. That, we said, could not have been intended by the General Assembly. Rather, we concluded that the phrase "action involving landlord and tenant" was intended to be limited to "those possessory *in rem* or *quasi in rem* actions that provided a means by which a landlord might rapidly and inexpensively obtain repossession of his premises situated in this State or seek security for rent due from personalty located on the leasehold."

Williams, 361 Md. at 157 (quoting *Greenbelt*, 272 Md. at 229).

The foregoing cases explain why the circuit court had subject matter jurisdiction over the underlying complaint for breach of contract and the counterclaim seeking damages for back-rent and late fees. Neither pleading stated a *possessory in rem* or *quasi in rem* action. According to the complaint, the following issues were raised to show that Mr. Bailey and Ms. Henderson breached their contractual requirement under the lease agreement: (1) HVAC issues; (2) consistent leaking from radiators that could lead to potential safety issues and water damage on first floor; (3) physical health hazards, such as mold, falling ceiling tiles; (4) cracked and dirty windows; (5) trash cans in front of business; (6) poor elevator maintenance; (7) inconsistent electricity; (8) structural issues caused by rotting wood and mold; and (9) a lack of exterior and interior landscape maintenance. Based on these claims, Mhoon Dance sought damages in the amount of $360,000.00 and requested the court allow the company to stay at the property while researching potential relocation opportunities.[9]

[9] We note that Mhoon Dance's request for an order permitting the company to remain on the Property became moot when the company vacated the leased premises in January of 2019, before the counterclaim was filed.

The counterclaim sought, as damages, past-due rent from June 2018 through December 2018 in the amount of $49,166, as well as the accelerated remainder of the rent due under the lease in the amount of $273,650. The counterclaim also requested late fees in the amount of $2,468 for two returned checks in the amounts of $200 and $25, and any additional damages and court costs that the court deemed necessary.

The complaint for breach of contract was not an in rem or quasi in rem action, nor was the counterclaim. Thus, the circuit court, rather than the district court, had exclusive and original jurisdiction over the complaint and counterclaim.

For all the reasons discussed above, we affirm the decisions of the circuit court.

JUDGMENTS OF THE CIRCUIT COURT AFFIRMED; COSTS TO BE PAID BY APPELLANT.