

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

NISBET PROPERTY HOLDINGS, LTD.,	:	APPEAL NO. C-140195 TRIAL NO. A-1400083
	:	
Plaintiff-Appellee,	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
	:	
AIKO PROPERTIES, LLC,	:	
	:	
and	:	
	:	
JON SAYLOR	:	
	:	
Defendants-Appellants.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendants-appellants Aiko Properties, LLC, (“Aiko”) and Jon Saylor appeal the judgment of the trial court entering default judgment against them in favor of plaintiff-appellee Nisbet Property Holdings, Ltd., (“Nisbet”). Nisbet entered into a land-installment contract with Aiko for the sale of real property on Kenwood Road (the “Property”). Saylor signed the contract as guarantor of Aiko’s obligations. After Aiko failed to make payments on the contract, Nisbet initiated proceedings in the trial court seeking an order declaring Aiko in default of the contract, quieting title in the Property in favor of Nisbet, and forfeiting any interest Aiko and Saylor had in the Property, including any possessory interest. When Aiko and Saylor failed to plead,

defend, or otherwise appear in the action, Nisbet filed a motion for default judgment, which the trial court granted.

In their sole assignment of error, appellants argue that the trial court erred in granting Nisbet's motion for default judgment. Specifically, appellants argue that the land-installment contract required Nisbet to institute foreclosure proceedings to recover possession of the Property, and that the trial court should have denied Nisbet's motion on that basis. Because the appellants did not raise this specific argument before the trial court, they cannot raise it for the first time on appeal. *See, e.g., Hadassah, The Women's Zionist Org. of Am., Inc. v. Schwartz*, 197 Ohio App.3d 94, 2011-Ohio-5247, 966 N.E.2d 298, ¶ 14 (1st Dist.). Instead, Defendants' argument that Nisbet should have proceeded by filing a foreclosure action is more suited to a Civ.R. 60(B) motion. *See* Civ.R. 55(B) (providing that a court may set aside a default judgment in accordance with Civ.R. 60(B)). Therefore, we overrule appellants' assignment of error.

The judgment of the trial court is affirmed.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

CUNNINGHAM, P.J., FISCHER and DEWINE, JJ.

To the clerk:

Enter upon the journal of the court on October 29, 2014
per order of the court _____.
Presiding Judge