

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

TROTTA'S PROPERTIES, LLC,

Plaintiff-Appellant,

vs.

KHALID ALNAJAR,

Defendant-Appellee.

APPEAL NO. C-190593

TRIAL NO. A-1602072

JUDGMENT ENTRY.

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Plaintiff-appellant Trotta's Properties, LLC, ("Trotta's") appeals the trial court's judgment denying Trotta's request to impose a sanction on defendant-appellee Khalid Alnajar after he purged his contempt. Holding the trial court did not abuse its discretion in refusing to impose a sanction, we affirm the trial court's judgment.

Trotta's sued Alnajar when the development of his commercial property encroached on a shared driveway that serviced both parties' property. The parties entered into a settlement agreement, which included an agreed permanent injunction ("the injunction") requiring Alnajar to erect bollards between the properties and to repave a portion of the shared driveway. When Alnajar did not do this in a timely manner, Trotta's moved for contempt. The trial court found Alnajar in contempt and ordered him to "comply with the terms of the injunction" within 15 days. If the work was not complete in 15 days, a daily fine would be imposed until Alnajar complied with the terms of the injunction.

Within the 15 days, Alnajar erected the bollards and had a “cold patch” placed on the shared driveway. Trotta’s disputed Alnajar’s compliance and a hearing was held before a new trial judge. The successor trial court found that Alnajar had properly erected the bollards, but held that the “cold patch” did not meet the requirement in the injunction that the area of the shared driveway be repaved. Instead of assessing a fine, the trial court chose to give Alnajar 30 more days to repave the driveway. Alnajar did so within the 30 days and filed a notice of compliance. Although Trotta’s agreed that Alnajar had properly repaved the driveway, it still requested that a sanction be imposed “to protect [the] Court’s dignity and the uninterrupted and unimpeded administration of justice.” The trial court denied Trotta’s request, noting that the contempt had been purged and that the extra time it had given Alnajar to purge the contempt was appropriate given that the prior trial court’s order was not clear as to what exactly Alnajar had been required to do and, despite that, Alnajar had partially complied with the order. Trotta’s now appeals.

In a single assignment of error, Trotta’s contends the trial court erred by denying its motion for the assessment of a fine for Alnajar’s failure to timely purge his civil contempt of court.

We review a trial court’s decision on a motion for contempt under an abuse-of-discretion standard. *Wolf v. Wolf*, 1st Dist. Hamilton No. C-090587, 2010-Ohio-2762, ¶ 4. A trial court abuses its discretion if its decision is contrary to law, unreasonable, not supported by the evidence, or grossly unsound. *State v. Boles*, 187 Ohio App.3d 345, 2010-Ohio-278, 932 N.E.3d 345, ¶ 16-18 (2d Dist.).

The purpose of sanctions in a civil contempt case is to coerce the contemnor to obtain compliance with the orders of the court. *State v. Kilbane*, 61 Ohio St.2d 201, 204-205, 400 N.E.2d 386 (1980). The sanction must provide an opportunity to purge the contempt. *Id.* at 206-207. Once the contemnor chooses to comply with the court’s order, the purpose of the sanction is achieved and the sanction ends. *City of Cleveland v. Ramsey*, 56 Ohio App.3d 108, 110, 564 N.E.2d 108 (8th Dist.).

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Although the parties agree that Alnajar has purged his contempt, Trotta's maintains that the assessment of a fine is necessary to protect the dignity of the court because it took Alnajar more than seven months to comply with the settlement agreement. We are unpersuaded.

In considering a contempt motion, including whether to impose a sanction, a trial court may consider whether the contemnor has attempted to comply with the court order. Here, the trial court, in its discretion gave Alnajar 30 more days to repave the driveway because it had found that Alnajar had partially complied with the order by erecting the bollards and applying a cold patch. The trial court determined that the cold patch was insufficient to meet the requirement of the injunction, but found that the prior court's order may have been unclear as to what was expected of Alnajar. We cannot say that this reasoning is unsound. Accordingly, we hold that the trial court did not abuse its discretion in denying Trotta's request that a fine be assessed against Alnajar.

The single assignment of error is overruled, and the judgment of the trial court is affirmed.

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.

MOCK, P.J., BERGERON and CROUSE, JJ.

To the clerk:

Enter upon the journal of the court on October 28, 2020,
per order of the court_____.

Presiding Judge