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# Landlord and Tenant

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The case of *Bozeman v. Fitzmaurice*[8] involved the enforceability of a contract entered into between a local and an international union. The international was affiliated with the CIO at the time the contract with the local was made but had been expelled from that organization prior to the time suit was filed. The court held that it was an implied condition of the contract that the international remain affiliated with the CIO and that since this condition was breached, though involuntarily, the obligations of the local under the contract were ended; the local, therefore, could take its assets and affiliate with another international.

### *Specific Performance of Labor Agreements*

Specific performance of a labor contract on behalf of the union was upheld in *Masetta v. National Bronze and Aluminum Foundry Co.*,[9] a case of first impression in Ohio. The employer laid off all the union members, thus taking away seniority rights in violation of the union contract. A union member's class action suit under Ohio General Code Section 11257 was allowed since all rights of the members came from a common source although the actual compensation to each member would differ. The dissent stated that no class action could be brought but that the members must seek individual remedies.[10]

In *General Electric Co. v. International Union*[11] an employer sought specific performance of a work contract to end a work stoppage. The court held that an injunction ordering work resumed violated Amendment XIII of the United States Constitution and Section 502 of the Taft-Hartley Act.[12] However, the court, recognizing that the employer was engaged in important national defense work, held that the employer could enjoin the combining to stop work and the influencing of others not to work.

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## LANDLORD AND TENANT

Written leases for more than three years, signed by the landlord but either not attested or not acknowledged as required by Ohio General Code

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[8] 107 N.E.2d 627 (Ohio App. 1951).

[9] 62 Ohio L. Abs. 374, 107 N.E.2d 243 (Ohio App. 1952).

[10] *Id.* at 385, 107 N.E.2d at 249.

[11] 108 N.E.2d 211 (Ohio App. 1952).

[12] 61 STAT. 162, 29 U.S.C. § 143 (1947)

Section 8510, were enforced in equity in *Hennessy v. Moreland*[1] and *Grundstein v. Suburban Motor Freight, Inc.*[2] The statutory requirement that leases for more than three years must be acknowledged and attested probably serves no useful purpose, particularly when unacknowledged or unattested leases are specifically enforced in equity if the lessee has taken possession under his lease.

The question whether a two year lease renewable for three years is a lease for two or five years arose in *Corvington v. Heppert*[3] in an action by the purchaser of registered land against his vendor for breach of a covenant against incumbrances. Section 8572-73 of the Ohio General Code provides that a purchaser of registered land takes subject to all leases "for a term not exceeding three years, when there is actual possession under the lease." The land was purchased prior to the expiration of the initial two year period of the lease and the lessee was in possession. But a majority of the Ohio Supreme Court found no breach of the vendor's covenant against incumbrances. The majority opinion found the lease to be one for more than three years and therefore wholly ineffective under Section 8572-73 against the purchaser. The majority opinion does not explain why the lease without the renewal provision should not be valid against the purchaser for the balance of the initial two year period. All of the cases cited in support of the majority opinion are from states other than Ohio and almost all of these cases are distinguishable.

The dissenting opinion[4] in the *Corvington* case follows the reasoning of an earlier Ohio Supreme Court case[5] and the spirit of the Title Registration Act. The purpose of Ohio General Code Section 8572-73 must have been to prevent a purchaser of registered land from being kept out of possession for more than three years by a lessee who has failed to have his lease properly noted on the certificate of title to the land. Consequently, enforcement of the lease for its initial two year period and refusal to allow its renewal for three years as against the purchaser seems a more acceptable decision.[6]

In *South Main Akron, Inc. v. Lynn Realty, Inc.*[7] the court of appeals properly held that voluntary dissolution of a corporate lessee may constitute an anticipatory breach of the lessee's covenant to pay rent for the whole period of a long term lease. The court of appeals in its decision considered

[1] 90 Ohio App. 178, 104 N.E.2d 195 (1951).
[2] 92 Ohio App. 181, 107 N.E.2d 366 (1952).
[3] 156 Ohio St. 411, 103 N.E.2d 558 (1952).
[4] 156 Ohio St. 411, 418, 103 N.E.2d 558, 562 (1952).
[5] Swetland & Sons Co. v. Bronx Realty Co., 17 Ohio C.C. (N.S.) 249 (1910), *aff'd mem.*, 86 Ohio St. 313, 99 N.E. 1134 (1912).
[6] *Cf.* Toupin v. Peabody, 162 Mass. 473, 39 N.E. 280 (1895).
[7] 106 N.E.2d 325 (Ohio App. 1951).