

with a similar notice in accordance with Iowa Code chapter 656.⁶ Since the terms of the real estate contract were not performed within thirty days of notice of forfeiture, Ganzer filed affidavits with the county recorder in support of forfeiture.⁷ No written notice of termination of the farm tenancy was ever served on Pfab however, as required by Iowa Code section 562.6.⁸ That section states in part:

In the case of farm tenants, except mere croppers, occupying and cultivating an acreage of forty acres or more, the tenancy shall continue beyond the agreed term for the following crop year and otherwise upon the same terms and conditions as the original lease unless written notice for termination is served upon either party or a successor of the party in the manner provided in section 562.7, whereupon the tenancy shall terminate March 1 following. However, the tenancy shall not continue because of absence of notice if there is default in the performance of the existing rental agreement.⁹

Upon Pfab's refusal to terminate his tenancy, Ganzer brought a declaratory judgment action against Pfab contending that Ganzer was entitled to exclusive possession of the land and to all the PIK payments.¹⁰ Ganzer alleged that the completed forfeiture extinguished Pfab's tenancy rights.¹¹ Ganzer also asserted that Iowa Code chapter 656 requires only service of notice of forfeiture and not notice of termination of tenancy.¹²

Pfab argued that according to Iowa Code section 562.6 he must receive written notice of the farm tenancy termination.¹³ In addition, Pfab pointed out that Iowa public policy favoring secure farm tenancies intended to give farmers certainty in planning their soil, crop and livestock needs for the subsequent year.¹⁴ He therefore asserted the necessity of receiving that writ-

6. Ganzer v. Pfab, 360 N.W.2d at 755. See *supra* note 5.

7. Ganzer v. Pfab, 360 N.W.2d at 755. Ganzer acted pursuant to Iowa Code section 656.5, which states:

If the terms and conditions as to which there is default are not performed within said thirty days, the party serving said notice or causing the same to be served, may file for record in the office of the county recorder a copy of the notice aforesaid with proofs of service attached or endorsed thereon (and, in case of service by publication, a personal affidavit that personal service could not be made within this state), and when so filed and recorded, the said record shall be constructive notice to all parties of the due forfeiture and cancellation of said contract.

IOWA CODE § 656.5 (1985).

8. Ganzer v. Pfab, 360 N.W.2d at 755.

9. IOWA CODE § 562.6 (1985).

10. Ganzer v. Pfab, 360 N.W.2d at 755.

11. Brief for Plaintiff at 2, Ganzer v. Pfab, No. 21390 (Jackson Co. Iowa Dist. Ct. filed Nov. 7, 1983). See *infra* note 28 and accompanying text.

12. *Id.* See *supra* note 5.

13. Brief for Defendant at 2, Ganzer v. Pfab, No. 21390 (Jackson Co. Iowa Dist. Ct. filed Nov. 7, 1983). See *supra* note 9 and accompanying text.

14. *Id.*

tions should be read into chapter 562 and that it is the exclusive remedy for terminating farm tenancies.²⁵

The Iowa Supreme Court *held*, affirmed.²⁶ When a landlord's interest as contract vendee has been forfeited by the vendor, a farm tenant is entitled to possession of leased farmland for the subsequent crop year if he does not receive notice of lease termination as required by Iowa Code section 562.6 (1985). *Ganzer v. Pfab*, 360 N.W.2d 754 (Iowa 1985).

The *Ganzer* decision is a significant departure from the established rules at common law that a tenant can have no greater interest in property than his landlord²⁷ and that a tenant takes subject to all claims of paramount title enforceable against the landlord.²⁸ The *Ganzer* opinion was also contrary to the common law rule that once a contract vendee's interest was properly forfeited, the vendee's tenant's interest was then cut off.²⁹ In *Ganzer*, the Iowa Supreme Court applied Iowa Code Sections 562.6—7 and "carve[d] out an exception to the established [common law] rule in the case of farm tenancies."³⁰ The fact that this was a farm tenancy was central to the court's decision.³¹ The court stated that the farm tenancy provisions of Chapter 562 were "clearly designed to supercede the common law."³²

The court in *Ganzer* began its analysis by discussing two changes in the common law which were effectuated by chapter 562.³³ First, the court recognized that at common law, the rights of a farm tenant were extinguished when a landlord's life estate terminated.³⁴ The court noted that section 562.8 specifically changed this common law rule and clearly imposed the requirement of notice of termination of a tenancy when a landlord's life estate

25. Brief for Appellee at 7-8, *Ganzer v. Pfab*, 360 N.W.2d 754 (Iowa 1985). See *infra* note 48 and accompanying text.

26. *Ganzer v. Pfab*, 360 N.W.2d at 757.

27. *Deseret Salt Co. v. Tarpey*, 142 U.S. 241, 245 (1891). The Iowa Supreme Court has recognized that "[T]he possession of the lessee was not regarded as in his own right, but as the possession of the lessor, and the destruction of the freehold was attended with the destruction of the lease." *Cohen v. Hayden*, 180 Iowa 232, 247, 163 N.W. 238, 238 (1917).

28. *Shrunk v. Andres*, 221 Minn. 465, —, 22 N.W.2d 548, 551 (1946). See also RESTATEMENT (SECOND) OF PROPERTY, LANDLORD AND TENANT § 4.1(1) (1977) (a legal interest held by a third party in the leased property not terminable at the will of the landlord is paramount to the tenant's interest).

29. G. MADSEN, MARSHALL'S IOWA TITLE OPINIONS AND STANDARDS 462 (2d ed. 1978). "Junior lienors, tenants, judgment creditors, etc. have no rights that rise above the rights of the vendee, and if the vendee and parties in possession are properly served, their rights are cut off by the forfeiture and no further service need be made." *Id.* Cf. *Parris—West Maytag Corp. v. Continental Amusement Corp.*, 168 N.W.2d 735, 739 (Iowa 1969) (the landlord is entitled to possession as against a sublessee when the lessee forfeits because of breach).

30. *Ganzer v. Pfab*, 360 N.W.2d at 758. (Carter, J., dissenting).

31. *Id.* at 756.

32. *Id.*

33. *Id.*

34. *Id.* See *Egbert v. Duck*, 239 Iowa 646, 32 N.W.2d 404 (1948); *Sanders v. Sutlive Bros.*, 187 Iowa 300, 174 N.W. 267 (1919).

