

IN THE COURT OF APPEALS OF IOWA

No. 5-429 / 94-1233

SIXTH & BROADWAY LIMITED PARTNERSHIP.

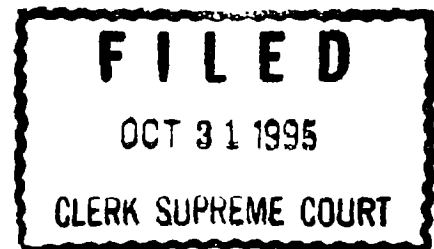
An Iowa Limited Partnership, and **REAL ESTATE
MANAGEMENT, INC.**, An Iowa Corporation, and
REDLAND INSURANCE COMPANY, An Iowa
Corporation.

Plaintiffs-Appellants.

vs.

AMERICORP REALTY, INC.,

Defendant-Appellee.



Appeal from the Iowa District Court for Pottawattamie County, Keith E.
Burgett, Judge.

Plaintiffs requested a declaratory judgment determining their relationship with
defendant and claiming damages based on defendant's alleged breach of duties under
a limited partnership agreement. **AFFIRMED.**

W. Curtis Hewett of Smith Peterson Law Firm, Council Bluffs, for appellants.

William R. Hughes of Stuart, Tinley, Peters, Thorn, French & Hughes, Council
Bluffs, and David S. Houghton of Lieben, Dahlk Law Firm, Omaha, Nebraska, for
appellee.

Heard by Sackett, P.J., Cady, J., and Perkins, S.J.*

* Senior judge from the Fifth Judicial District serving on this court by order
of the Iowa Supreme Court.

PER CURIAM

Plaintiffs-appellants Sixth & Broadway Limited Partnership, Real Estate Management, Inc., and Redland Insurance Company appeal the trial court order dismissing the petition they filed May 3, 1994 against defendant-appellee Americorp Realty, Inc. The petition alleged defendant was a Nebraska corporation dissolved by the Nebraska Secretary of State on April 16, 1993 for failure to pay the Nebraska corporation occupation tax due April 15, 1993. Plaintiffs asked for a declaratory judgment determining the relationship between plaintiffs and defendant and asked for damages against defendant on behalf of two plaintiffs. We affirm.

When plaintiffs filed their petition and original notice, the petition stated there were three exhibits attached to it. The exhibits were not attached to the petition filed with the clerk of court, but were attached to the petition attached to the original notice served on defendant.

Defendant responded to the petition with a motion to dismiss. Defendant alleged in the motion, in essence, (1) the petition was not properly filed because the exhibits were not attached to the petition on file with the clerk; (2) the original notice was not properly served and, specifically, because of the attached exhibits, the copy of the petition served on defendant was not identical to the petition on file with the clerk and the service of process was not adequate and did not comply with Iowa law for serving non-resident defendants; (3) the first division of the petition seeking a

judgment has been brought and is pending in the State of Nebraska and the second and remaining division of the petition is based on an event which occurred in Nebraska: (4) the court lacks subject matter jurisdiction: (5) the venue is not proper: and (6) Iowa is a forum non convenience. The motion was filed on May 26, 1994. Plaintiffs filed no response to the motion. There apparently were arguments on the motion which were not reported.

On June 29, 1994, the trial court by calendar entry sustained defendant's motion to dismiss. No reasons were given by the trial court for the dismissal. The trial court did not specify that division of defendant's motion he found dictated the dismissal.

This appeal follows. Plaintiffs contend (1) a motion to dismiss on the pleading should not be sustained unless there are not facts under which plaintiffs might demonstrate the right to relief; (2) the petition was sufficient under notice pleading; (3) the original notice used was in compliance with the Iowa rules; (4) the Iowa court has subject matter jurisdiction; (5) venue in Pottawattamie County is appropriate; and (6) Iowa is a convenient forum.

The only documents available to us are the petition, the motion to dismiss, and the one line ruling by the trial court. Plaintiffs' brief does not demonstrate how the error they now urge was preserved. *See Jones v. Madison County*, 492 N.W.2d 690, 693-94 (Iowa 1992). We do not address issues not properly raised on information not

contained in the record. *Cross v. Lightolier Inc.*, 395 N.W.2d 844, 849 (Iowa 1986).

We have reviewed all issues raised by plaintiffs on the limited record before us and find no reason to reverse the trial court.

AFFIRMED.