

IN THE COURT OF APPEALS OF IOWA

No. 9-630 / 08-1407
Filed November 25, 2009

RONALD E. SNOOK,
Plaintiff-Appellant,

vs.

NORMAN W. SNOOK, SR.,
Defendant-Appellee.

Appeal from the Iowa District Court for Davis County, Daniel P. Wilson,
Judge.

Appellant appeals the district court's dismissal of his petition alleging
fraudulent misrepresentation and breach of confidential relationship by his
brother. **AFFIRMED.**

Bradley M. Grothe, Centerville, for appellant.

Alan M. Wilson, Corydon, for appellee.

Heard by Vogel, P.J., and Doyle and Mansfield, JJ.

VOGEL, P.J.

Ronald Snook appeals the district court's dismissal of his petition seeking judgment against his brother, Norman W. Snook, for fraudulent misrepresentation, breach of a confidential relationship, and failure to account for all farm finances.¹ Because we agree with the district court in dismissing all claims, we affirm. The parties agree the case was tried in equity and our review is de novo. Iowa R. App. P. 6.4.

I. Background Facts and Proceedings

Charles and Zenith Snook had five children: Norman, Beverly, Arlene, Patricia, and Ronald, and owned 120 acres of farm land in Davis County, Iowa, as joint tenants, with full rights of survivorship. In 1991, ten years after Charles' death, Zenith conveyed her interest in the land to the five children as tenants in common. It was generally understood among the children that Zenith requested Norman to manage the land and finances upon her passing. Wanting no part of the farm, Arlene, in November 1993, conveyed her interest in the land to her four siblings. Likewise, in December 1995, Patricia conveyed her interest in the land to the other three siblings.

In the summer of 2002, Norman and Ronald discussed the ownership of the farmland. Their recollection of the conversations and events from that time forward vary significantly and are the genesis of the current litigation. According to Ronald, with his own health declining, he "wanted to ensure the fact that in my estate was left a piece of Dad's farm for my son and my grandchildren." To that

¹ Norman asserts the district court lacked subject matter jurisdiction, but we find jurisdiction was proper.

end, he wanted Norman to divide up the 120 acres among four siblings: Ronald, Norman, Arlene, and Patricia.² Norman, however, recalled that Ronald simply demanded his thirty acres and there was no talk of any deeding of acres to Arlene or Patricia. On September 14, 2002, Ronald traveled to Michigan for Norman's surprise sixtieth birthday party. Following the party, Norman and Ronald executed the deeds, conveying thirty acres to Ronald, and ninety acres to Norman.

After speaking with a local realtor, Norman felt the land was valued at approximately \$425.00 per acre. He then sent a check for \$12,750³ to both Arlene and Patricia for their thirty-acre share of the property. Although both sisters had previously quitclaimed their interest in the land, Norman felt they were "morally entitled" to a share of the value. After Ronald learned that both sisters had "sold to" Norman, and feeling Norman had deceived him in retaining the ninety acres for himself, he filed this action.

At the June 2008 trial, Ronald testified that while executing the deeds on September 14, 2002, Norman informed him that Arlene and Patricia would each receive thirty acres from the ninety acres he quitclaimed to Norman. Ronald asserts that he relinquished his interest in the ninety acres under the belief that Norman, Arlene, Patricia, and he, would equally share the 120 acres, each receiving thirty acres. He asserted that Norman breached this "agreement" and

² Beverly was not included, as she, in August 2002, conveyed her interest in the land to Ronald and Norman, in exchange for title to the former home of Charles and Zenith, in Eldon, Iowa.

³ Although not entirely clear from the record, it appears the checks were written in 2004.

misrepresented the proposed distribution of the acres to Arlene and Patricia, also asserting an associated claim of breach of confidential relationship.

Norman testified that Ronald demanded thirty acres, choosing the specific acres he wanted from the 120-acre farm. He recalled Ronald saying that he “didn’t want to be attached to the hip with his siblings,” so Norman complied with Ronald’s wishes. Norman had the deeds prepared; conveying Ronald’s requested thirty acres to him and the remaining ninety acres to himself. Norman disagrees with Ronald’s contention that there was an agreement or even any discussion at that time as to Arlene and Patricia each being given thirty acres. Nonetheless, Norman testified that although Arlene and Patricia had quitclaimed their interest in the farmland years earlier, he felt each had a “moral entitlement” to compensation for their share of the land and that is why he sent each of them the \$12,750. He stated that Ronald had the same opportunity as he had to acquire sixty acres, but Ronald said “thirty acres is enough for me.”

The district court found that no agreement or contract existed between Norman and Ronald as to whether Norman would convey thirty acres each to Arlene and Patricia. The court dismissed Ronald’s claims of fraudulent misrepresentation, breach of confidential relationship, and demand for an accounting. Ronald appeals.⁴

II. Fraudulent Misrepresentation

Ronald asserts the district court should have found for him on his claim against Norman for fraudulent misrepresentation. To prove fraudulent

⁴ We note that Ronald does not appeal the district court’s finding that there was no enforceable contract between the brothers.

misrepresentation, Ronald needed to establish the following elements by a preponderance of clear, satisfactory, and convincing proof: (1) representation, (2) falsity, (3) materiality, (4) scienter, (5) intent to deceive, (6) reliance, and (7) resulting injury and damage. *Arthur v. Brick*, 565 N.W.2d 623, 624 (Iowa Ct. App. 1997).

Ronald asserts Norman deceived him by representing that he would deed thirty acres to Arlene and Patricia. He claims that had he known Norman was intending to keep the ninety acres for himself, he would never have agreed to sign the deed conveying the ninety acres to Norman. The district court found no fraudulent misrepresentation occurred, and we affirm. By his own admission, Ronald acknowledged that his sisters, Arlene and Patricia, had no desire to own any of the farmland, and had each previously deeded their interests to their siblings. He also acknowledged that Beverly wanted no part of the farmland and was given the house in town. Ronald testified, “she’s the only one still legally on the farm besides you and me,” referencing a conversation with Norman with regards to Beverly’s interest. Knowing the status of the title, Ronald nonetheless conveyed his interest in the ninety acres to his brother Norman, thereby giving up any interest he had in the property.

Although the district court found Ronald to be the more credible brother, it found Ronald did not prove Norman made any false representations to him, or that he intended to deceive him. Specifically, the district court found the evidence both “fails to establish a false representation was made by Norman to Ronald concerning the disposition of land to Arlene and Patricia . . . [and] fails to establish that Norman intended to deceive Ronald by any such representation.”

Finding no basis in the record to support Ronald's claim of fraudulent misrepresentation, we agree with the district court's dismissal of this claim.⁵

III. Breach of Confidential Relationship

Ronald also claims the district court failed to find that Norman was in a confidential relationship with Ronald and breached that relationship. "The gist of the doctrine of confidential relationship is *the presence of a dominant influence* under which the act is presumed to have been done. The purpose of the doctrine is to defeat and correct betrayals of trust and abuses of confidence." *In re Estate of Clark*, 357 N.W.2d 34, 37 (Iowa Ct. App. 1984). Ronald needed to establish his claim of a confidential relationship with Norman by clear and convincing evidence. *King v. King*, 291 N.W.2d 22, 24 (Iowa 1980).

Ronald claims he placed his trust and confidence in Norman, as Norman had managed the finances of the farm since 1991. From that confidence, Ronald asserts he accepted his thirty acres, quitclaimed his interest in the remaining ninety acres, and relied on Norman to then convey thirty acres each to Arlene and Patricia. However as the district court found, because no such agreement or contract existed between the brothers, Ronald's claim for breach of a confidential relationship must fail. Further, Ronald was not able to prove Norman held a "dominant influence" over Ronald. *Clark*, 357 N.W.2d at 37. Ronald was fully

⁵ The district court further found that even if, in fact, an agreement was made between Ronald and Norman as to whether the ninety acres would be split by conveying thirty acres each to Arlene and Patricia, the beneficiaries to any such agreement would be Arlene and Patricia, not Ronald. Both Arlene and Patricia testified at trial. Neither claimed any interest in the ninety acres, and both were satisfied with the check they received from Norman for \$12,750. Furthermore, even if Arlene and Patricia would have been deeded or each chosen to claim thirty acres, any such action would not have affected Ronald. As the district court found, "Ronald would be in the same position he was at the time of trial, owning thirty acres of the family farm in his name only."

competent to make his own decisions regarding his own actions. Moreover, he had every opportunity to discuss the division of the farmland with his sisters, had he chosen to do so. As the district court found, we agree that “the evidence does not support a finding of a confidential or fiduciary relationship between Ronald and Norman as concerns Ronald’s assertion that Norman agreed to convey thirty acre parcels to Arlene and Patricia.”

IV. Accounting

Ronald also faults the district court for failing to order Norman to provide an accounting of all the receipts and disbursements from the farm operation since he began managing the property in 1991. The district court found no evidence to support a finding that Norman misappropriated the farm finances, or cheated his siblings while he managed the farm income, and dismissed the claim. Norman testified the farm did not generate much income as it was in the federal Conservation Reserve Program. He made two distributions to his siblings; one in 1995 and a second in 2004. None of the other siblings had any concerns as to Norman’s management of the farm account or requested an accounting. For trial purposes, Norman reconstructed a detailed listing of income and expenses from June 1, 1992, through December 13, 2007. We agree with the district court the evidence does not indicate “that Norman misapplied, misappropriated or in any way cheated his siblings as concerns the Snook farm finances.” We agree no further accounting was indicated on this record.

Having considered all of Ronald's arguments on appeal, we affirm the district court. We deny Ronald's request for additional attorney fees and assess costs on appeal to him.⁶

AFFIRMED.

⁶ The testimony was difficult to follow in the appendix, as each witness's name was not designated at the top of each page where the witness's testimony appears. Although not applicable to this appeal, effective January 1, 2009, the rules of appellate procedure require the name of each witness whose testimony is included in the appendix to appear at the top of each page where the witness's testimony appears. See Iowa R. App. P. 6.905(7)(c) (2009).