

STATE OF MICHIGAN
COURT OF APPEALS

WILLIAM PAUL GILLESPIE and
DENISE ARLEEN GILLESPIE.

UNPUBLISHED
February 18, 2000

Plaintiffs-Appellees,

v

ROBERT RUSSELL NOVAK,

No. 214621
Washtenaw Circuit Court
LC No. 96-007235-CK

Defendant-Appellant.

Before: O'Connell, P.J., and Murphy and Jansen, JJ.

PER CURIAM.

Defendant appeals as of right from a judgment for plaintiffs entered after a bench trial. Plaintiffs had sued defendant, a building contractor, seeking recovery under an agreement that allegedly obligated defendant to reimburse plaintiffs for expenses they paid directly to subcontractors that were in excess of the contract price for building their home. We affirm.

Defendant argues that the trial court failed to make specific findings of fact regarding the amount defendant owed to plaintiffs and what credit, if any, should be given for the tax savings realized by plaintiffs in writing off the debt. We conclude that the trial court made sufficient findings of fact.

MCR 2.517(A)(1) requires that, in a bench trial, the court must make specific findings of fact and conclusions of law. The purpose behind this requirement is to facilitate appellate review. *People v Johnson (On Rehearing)*, 208 Mich App 137, 141; 526 NW2d 617 (1994). The court rule also provides that "[b]rief, definite, and pertinent findings and conclusions on the contested matters are sufficient, without overelaboration of detail or particularization of facts." MCR 2.517(A)(2). Where it is manifestly apparent that the trial court was aware of the factual issues in the case and resolved them, it is not necessary to remand for further factual findings to explain the court's path in reaching its decision. *Johnson, supra* at 141-142.

In this case, the trial court told defendant that plaintiffs' evidence indicated that defendant owed them \$28,010.40, and that defendant needed to present evidence in rebuttal. The court was clearly aware of the factual issue of how much defendant owed plaintiffs. Defendant did not dispute that he

signed an agreement that provided that he owed \$28,010.40 to plaintiffs. The court, in its opinion, specifically noted defendant's contention that he signed the agreement only to allow plaintiffs to realize a tax savings on the unpaid debt. The court specifically found that defendant owed the amount listed in the agreement. Regarding the tax savings realized by plaintiffs, the record does not indicate that a factual dispute existed. Plaintiffs told the court that they anticipated a tax liability upon defendant's satisfaction of the judgment, but that they would reimburse defendant for any possible net tax savings they realized. Defendant did not object to this and presented no evidence as to the specific tax savings realized. We do not believe that further factual findings are necessary to facilitate appellate review.

Defendant also argues that the trial court's findings of fact were clearly erroneous. We review a trial court's factual findings for clear error. MCR 2.613(C); *Cipri v Bellingham Frozen Foods, Inc.*, 235 Mich App 1, 8; 596 NW2d 620 (1999). A finding is clearly erroneous when, although there is evidence to support it, we are left with the definite and firm conviction that a mistake has been made. *Id.* at 9.

Defendant essentially contends that the trial court clearly erred by rejecting defendant's "more compelling" version of the facts surrounding the parties' agreement. Specifically, defendant maintains that he signed the agreement only at the request of plaintiffs and only to allow them to claim a bad debt on their tax returns. Defendant presented a witness that testified that plaintiffs did assure defendant that the agreement was to be used for tax purposes only. However, this witness was present only at the second signing of the agreement, the first copy having been lost. Contrary to defendant's contention, plaintiff William Gillespie testified that, although he communicated the tax purpose to defendant, he also told defendant that the agreement was designed to memorialize his obligation to them. Thus, the trial court was faced with a factual dispute regarding the agreements and a credibility issue between witnesses. Ultimately, the trial court found that plaintiffs satisfied their burden of proving that defendant had agreed to pay them \$28,010.40.

In reviewing a trial court's factual findings for clear error, the court rule also requires us to bear in mind "the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it." MCR 2.613(C). Credibility determinations "are far more within the competence of the trial court than within the competence of appellate judges reading dry records." *Morris v Clawson Tank Co.*, 459 Mich 256, 271; 587 NW2d 253 (1998). We conclude that William Gillespie's testimony was sufficient to support the trial court's factual finding and that this finding is not clearly erroneous merely because there was conflicting evidence on the issue. Defendant's remaining challenges to the trial court's findings of fact also involve the credibility of the witnesses and conflicting versions of the facts. We will not disturb the trial court's resolution of credibility disputes.

Affirmed.

/s/ Peter D. O'Connell
/s/ William B. Murphy
/s/ Kathleen Jansen