

STATE OF MICHIGAN
COURT OF APPEALS

TONY LAING and SARAH LAING,

Plaintiff-Appellees,

v

MARK Q. SHOLES and DEBRA SHOLES,

Defendant-Appellants.

UNPUBLISHED

December 13, 2002

No. 230979

Lapeer Circuit Court

LC No. 99-027438-CP

Before: Meter, P.J., and Saad and R.B. Burns*, JJ.

PER CURIAM.

Defendants appeal by right from a judgment for plaintiffs entered after a bench trial. Plaintiffs purchased a home from defendants and later discovered several defects in the home. They claimed that defendants fraudulently failed to disclose the defects before the purchase. The trial court awarded plaintiffs a total of \$10,434. We affirm.

Defendants first argue plaintiffs did not sustain their burden of proving fraud. In determining whether a plaintiff presented sufficient evidence in support of a claim, this Court views the evidence in the light most favorable to the plaintiff and “gives the plaintiff the benefit of every reasonable inference that can be drawn from the evidence.” *Mull v Equitable Life Assurance Society*, 196 Mich App 411, 421; 493 NW2d 447 (1992). “If, after viewing the evidence, reasonable people could differ, the question properly is left to the trier of fact.” *Id.* We review the trial court’s findings of fact for clear error and its conclusions of law de novo. *Gumma v D & T Construction Co*, 235 Mich App 210, 221; 597 NW2d 207 (1999).

Actionable fraud consists of the following elements:

“(1) the defendant made a material representation; (2) the representation was false; (3) when the defendant made the representation, the defendant knew that it was false, or made it recklessly, without knowledge of its truth as a positive assertion; (4) the defendant made the representation with the intention that the plaintiff would act upon it; (5) the plaintiff acted in reliance upon it; and (6) the plaintiff suffered damage.” [*M&D, Inc v McConkey*, 231 Mich App 22, 27; 585 NW2d 33 (1998) (*M&D II*), quoting *M&D v McConkey*, 226 Mich App 801, 806; 573 NW2d 281 (1997) (*M&D I*).]

* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

The trial court concluded that plaintiffs had proved fraud with regard to the leaky roof and flooding basement.¹ Defendants made statements both orally and in the written Seller's Disclosure Statement that the roof and basement were not problem areas. Plaintiffs relied on these statements to their detriment, and clearly defendants intended plaintiffs to rely on the statements. Accordingly, elements 1, 4, 5, and 6 were easily fulfilled. With regard to elements 2 and 3, the trial court essentially concluded that in light of the considerable extent of the defects, it was a reasonable inference that defendants knew about the defects and made false statements to plaintiffs regarding the condition of the areas in question. Given the evidence about the damage introduced at trial – including plaintiff Tony Laing's testimony and the photographs admitted into evidence showing extensive water problems – we conclude that the trial court did not err in this conclusion. Indeed, the trial court, which was in the best position to review the evidence in this case, made reasonable inferences from that evidence. See *Mull*, *supra* at 421.

Defendants next argue the trial court made insufficient findings of fact and conclusions of law when entering judgment for plaintiffs. In actions tried without a jury, the trial court must specifically find facts and state separately its conclusions of law regarding contested matters. MCR 2.517(A)(1). "Brief, 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). Findings are sufficient if the trial court was aware of the issues in the case and correctly applied the law and if "appellate review would not be facilitated by requiring further explanation." *Triple E Produce Corp v Mastronardi Produce, LTD*, 209 Mich App 165, 176; 530 NW2d 772 (1995).

The trial court's findings in this case consisted of nearly eight pages of trial transcript, in which the court made specific findings regarding the credibility of the witnesses. The court reviewed the testimony and the photographic evidence and concluded that the defects in question were so extensive that defendants must have known about them. A review of the findings shows that the court was aware of the issues and correctly applied the law, and our review would not be aided by requiring further explanation. *Id.*

Affirmed.

/s/ Patrick M. Meter
/s/ Henry William Saad
/s/ Robert B. Burns

¹ The court also concluded that plaintiffs had proved fraud with regard to the inoperable fireplace and chimney. Defendants do not take issue on appeal with the trial court's ultimate findings concerning the fireplace and chimney. Indeed, in their appellate brief they mention only the basement and roof issues. Although it is not necessary for us to do so, we note for the sake of completeness that plaintiffs presented sufficient evidence of fraud with regard to the fireplace and chimney and that the trial court's findings with regard to the fireplace and chimney were not clearly erroneous. Indeed, given the evidence of extensive problems with the fireplace and chimney, the court reasonably concluded that defendants made false statements to plaintiff about these items when they knew or should have known about their true condition.