STATE OF MINNESOTA
IN COURT OF APPEALS
A16-1854

In re the Estate of Anna McMullen, Deceased.

Filed June 26, 2017
Affirmed
Reilly, Judge

Cottonwood County District Court
File No. 17-PR-13-564

Kenneth R. White, Law Office of Kenneth R. White, P.C., Mankato, Minnesota; and

Raymond Walz, Walz Law Office, Redwood Falls, Minnesota (for appellant Mark Clennon)

William S. Partridge, Joseph A. Gangi, Farrish Johnson Law Office, Mankato, Minnesota (for respondent Richard McMullen)

Considered and decided by Johnson, Presiding Judge; Larkin, Judge; and Reilly, Judge.

U N P U B L I S H E D O P I N I O N

REILLY, Judge

Appellant Mark Clennon, as personal representative of the estate of Anna McMullen, challenges the district court's order denying his petition for a determination that a farm lease dated April 15, 2011, and re-signed July 19, 2013, is invalid. Because this farm lease is a new contract and did not modify earlier, expired leases, we affirm.

FACTS

On October 24, 2013, Anna McMullen (Anna) died intestate. At the time of her death, Anna owned two parcels of land, known as the Home Farm and the Ridge Farm. Located on the Home Farm is a building that Anna used to store farm machinery (Building Site). Anna is survived by her six children, five of whom now wish to sell all or a portion of the land to pay the debts of the estate. Respondent Richard McMullen (Richard), who does not wish to sell, has leased the Home Farm, Ridge Farm, and Building Site for years. It is the validity of a lease entered into between Anna and Richard that is at issue in this litigation.

After Richard graduated from high school in 1975, he remained home to help Anna operate the family farm. At that time, Anna owned only the Home Farm and the Building Site. In 1978, when Richard married Susan, the couple moved onto the Home Farm and continued to farm the land for Anna. In 1987, during a downturn in the farm economy, Richard and Susan borrowed nearly $100,000 to purchase Anna's interest in the farm machinery; Anna used this money to avoid foreclosure on the Home Farm. That same year, Anna leased nearly 140 tillable acres of the Home Farm to Richard and Susan for $70 per acre. In a separate written agreement, Anna leased the Building Site to the couple for $180 per month. The total annual rent owed under both leases was $11,680. Both leases terminated by their terms on February 28, 1991. Anna then entered into similarly written, four-year leases with Richard and Susan in 1992 and in 1996. After the 1996 leases expired in February 2000, Richard and Susan leased the Home Farm and the Building Site for an additional nine years under an oral agreement.

Several years after Richard and Susan first rented the Home Farm and the Building Site, Anna purchased the Ridge Farm. From 1999 to 2007, Anna leased the Ridge Farm to a third party for approximately $13,500 per year. In 2008, Richard and Susan began leasing the Ridge Farm under an oral lease, under which they agreed to pay the amount of rent paid by the previous tenant. The additional acreage increased their total annual rent payment to Anna from $11,680 per year to over $25,000 per year.

In 2009, the Cottonwood County Farm Services Agency (FSA) told Richard that he must submit a written lease to continue participating in United States Department of Agriculture farm programs. Richard discussed this requirement with Anna and, with her consent, prepared a handwritten lease that Anna signed on March 24, 2009. Anna and Richard agreed that the rent due under this lease would remain the same, but the handwritten lease did not include a rental amount. Because the FSA required that all recorded leases disclose the manner in which rent is to be paid, the FSA officer added the term "for cash rent" before filing the handwritten lease.

Two years later, an FSA officer informed Richard that the 2009 lease was deficient and requested that Richard file a new lease that specified the date on which the lease would expire. After Anna informed Richard that "he could rent the land for as long as he wanted," the parties signed the April 15, 2011 lease, a one-page handwritten document that stated: "Richard and Susan McMullen will be the renters of [Anna's] land for cash rent located in Sec 12 Selma[1] and Sec 10 Delton[2] for 2011 and thru [sic] 2025 for the same cash rent

[1] The Ridge Farm.
[2] The Home Farm and the Building Site.

$27,000 max." In 2013, Richard hired an attorney to draft a typewritten cover sheet that recited the full legal description of the land, and the names and marital status of each party to the lease. On July 19, 2013, Richard, Susan, and Anna re-signed the April 2011 lease, with the new typewritten cover sheet attached, in the presence of a notary public. Richard recorded the July 2013 agreement in December 2013, shortly after Anna passed away.

After the court appointed appellant to serve as personal representative of the estate, he filed a "Petition to Sell Real Estate and Release of Farm Lease." The district court held a one-day evidentiary hearing on the petition, where the only issue before the district court was whether the 2011 lease, re-signed in 2013, is an enforceable and valid lease, distinct from prior leases. After the hearing, the district court denied appellant's petition, concluding that the April 2011 and July 2013 agreement was a valid lease that expires in the year 2025.

This appeal follows.

D E C I S I O N

The lease entered into in April 2011, and re-signed in July 2013, did not extend or modify the 1996 written leases, which expired in February 2000.

Appellant argues that the lease that is the subject of this appeal only modified or extended the 1996 leases.[3] At oral argument, appellant acknowledged that, if the 1996

[3] Appellant also contends that the record does not support the district court's factual finding that the 2011 document was a new lease agreement. In essence, appellant contests the factual findings that are inconsistent with his theory of the case. "[W]e review the district court's factual findings for clear error. That is, we examine the record to see if there is reasonable evidence in the record to support the court's findings." *Rasmussen v. Two Harbors Fish Co.*, 832 N.W.2d 790, 797 (Minn. 2013) (quotations and citations omitted). There is ample evidence in the record to support the district court's findings that Anna,

leases remain in effect and were only modified by the 2011 document, he would be able to cancel the lease after giving proper notice. As a threshold matter, the parties dispute whether our review of the district court's decision is de novo or for an abuse of discretion. Because leases are contracts, we apply general principles of contract construction. *Knight v. McGinity*, 868 N.W.2d 298, 300 (Minn. App. 2015). "Contract interpretation is a question of law that [we] review de novo." *Id.* (quotation omitted). We construe leases "so as to give effect to the intention of the parties." *Id.* (quotation omitted).

Before we may address appellant's arguments, we must first provide a brief summary of the history of the parties' lease agreements. In 1996, Anna, Richard, and Susan entered into two separate lease agreements: (1) the Home Farm lease and (2) the Building Site lease.

The 1996 Home Farm lease specified a fixed four-year term; Richard and Susan were not required to provide written notice of their intent to terminate the lease. However, the lease provided that if the couple remained in possession of the real property beyond the four-year period, Anna could choose to convert the lease into a tenancy at will. But the record shows that this lease did not convert into a tenancy at will; instead, the parties intended to enter into a separate oral lease. Under the oral lease, Richard and Susan continued to rent both the Home Farm and the Building Site from Anna.

Richard, and Susan intended the 2011 agreement to constitute a distinct, valid, and enforceable lease.

Like the 1996 Home Farm lease, the 1996 Building Site lease established a fixed four-year term, but under the 1996 Building Site lease, Richard and Susan also contracted to "give [Anna and her husband] 30 days' written notice before the end of the term . . . that [the couple] intend[ed] to vacate the property." If the couple failed to give proper notice, Anna had the "the option of continuing this lease for 12 additional months without giving any notice to [Richard and Susan]." Any extension under this lease would automatically expire at the end of the 12-month period in 2001. Again, the record does not show that the lease continued in effect until 2001; rather, the parties entered into a separate oral agreement for the lease of the Building Site and the Home Farm upon the expiration of the 1996 leases.

From 2000 to 2009, Richard and Susan continued to rent the Home Farm and the Building Site under an oral lease; the details of which are unclear from the record presented on appeal. Although we refrain from determining the validity of this oral lease, we note that a written contract that is *not* within the statute of frauds may be modified by a subsequent oral contract. *See New Amsterdam Cas. Co. v. Lundquist*, 293 Minn. 274, 288, 198 N.W.2d 543, 551 n.5 (1972) (noting that an oral agreement may modify a previous written indemnity agreement that is not within the statute of frauds). Every contract for the lease of real property "for a longer period than one year . . . shall be void unless the contract, or some note or memorandum thereof, expressing the consideration, is in writing and subscribed by the party by whom the lease . . . is to be made. . . ." Minn. Stat. § 513.05 (2016). Because the 1996 written agreements created leases for real property for a period

of at least four years, these lease agreements are squarely within the statute of frauds. As a result, the subsequent oral lease did not modify the 1996 leases; rather, the 1996 leases terminated. Because we conclude that the parties' 2000 oral agreement did not extend or modify the 1996 written leases, any lease entered into after the expiration of the parties' oral lease likewise may not modify or extend the expired leases.

We now review the April 2011 and July 2013 agreements to determine whether a valid and enforceable lease exists. When the contractual language in a lease is clear and unambiguous, we must enforce the agreement as it is expressed in the language of the contract, *Dykes v. Sukup Mfg. Co.*, 781 N.W.2d 578, 582 (Minn. 2010), and, in doing so, we read the language of the contract as a whole and in a manner that gives meaning to all of its provisions, *Brookfield Trade Ctr., Inc. v. Cty. of Ramsey*, 584 N.W.2d 390, 394 (Minn. 1998). When the parties have reduced their agreement to an unambiguous integrated writing, the parol evidence rule prohibits "the admission of extrinsic evidence of prior or contemporaneous oral agreements, or prior written agreements, to explain the meaning of a contract." *Alpha Real Estate Co. v. Delta Dental Plan of Minn.*, 664 N.W.2d 303, 312 (Minn. 2003) (quotation omitted). However, when a term or provision of a lease agreement is ambiguous or incomplete, parol evidence is admissible to "explain the meaning of its terms." *Flynn v. Sawyer*, 272 N.W.2d 904, 908 (Minn. 1978).

With one exception, the lease that is the subject of this appeal is clear and unambiguous, and may therefore be interpreted according to its plain and ordinary language. The lease clearly and unambiguously provides (1) the legal names of the parties,

(2) an adequate description of the property, (3) a demise or leasing of the property, and (4) the commencement, duration, and termination of the rental period. *See* 6A Douglas J. Carney, *Minnesota Practice* § 51.1 (3d ed. 2016) (articulating that the legal names of the parties to a contract, an adequate description of the property, a statement of the demise or letting of the property, the term and expiration of the lease, *and* the amount of rent to be paid, are necessary components of a valid lease). While the document does not contain the legal terminology that is often expected in leases drafted by counsel, the omission of such language does not invalidate the lease. *Id.* at §§ 51.1, 51.2.

The district court, however, correctly determined that the language articulating the annual rent payment owed under the lease is ambiguous because the language "for the same cash rent" does not expressly identify the amount owed. The district court was therefore justified in its admission of parol evidence to determine the amount of rent owed under the lease. Because the amount of rent paid per acre did not vary from 1987 to the commencement of this litigation, the district court determined that "the same cash rent" meant $11,680 rent for the Home Farm and the Building Site, and $13,500 rent for the Ridge Farm. Under this lease, Anna agreed to lease the Home Farm, the Ridge Farm, and the Building Site to Richard and Susan for a total annual rent amount of approximately $25,000, and we will not review the adequacy of this consideration. *See Cityscapes Dev., LLC v. Scheffler*, 866 N.W.2d 66, 71 (Minn. App. 2015) (noting that appellate courts need not examine the adequacy of the consideration given as long as something of value passes between the parties to the contract). Because the lease contained all essential terms and is

evidenced by writings, the district court properly determined that it is valid and enforceable.

Affirmed.