STATE OF MINNESOTA
IN COURT OF APPEALS
A16-1755

Aeon,
Appellant,

Maria Antonia Alvarez Baez, et al.,
Appellants,

vs.

Lowry Grove Partnership, LLP,
Respondent,

The Village, LLC,
Respondent.

Filed May 8, 2017
Affirmed in part, reversed in part, and remanded
Rodenberg, Judge

Hennepin County District Court
File No. 27-CV-16-9809

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Considered and decided by Rodenberg, Presiding Judge; Ross, Judge; and Stauber, Judge.

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

RODENBERG, Judge

Appellants Aeon, a Minnesota nonprofit corporation, Maria Antonia Alvarez Baez, and the Lowry Grove Residents Association challenge the district court's grant of partial judgment on the pleadings dismissing their claims for equitable relief under Minn. Stat. § 327C.095 (2016), and denying their motion for partial summary judgment. We affirm in part, reverse in part, and remand.

FACTS

Lowry Grove is a manufactured-home park which, before this dispute, had 95 occupied lots. In 2016, Lowry Grove was owned by respondent Lowry Grove Partnership LLP (LGP). On April 24, 2016, LGP sent a notice to all of its park residents that it would sell the park to respondent The Village LLC (The Village)[1] and that The Village intended to close the park within one year of the sale. LGP also offered to provide the terms of The Village's accepted purchase offer to any resident who requested the information.

LGP's notice to the park residents referenced Minn. Stat. § 327C.095. That statute provides that, for a 45-day period after notice is sent from the park owner of a proposed

[1] The Village is the assignee of Continental Property Group LLC. The parties and the district court refer to Continental as The Village. We adopt that identification, despite the purchase agreement at issue having been between Continental and LGP.

sale, owners of at least 51 percent of the manufactured homes in the park (or a nonprofit organization with written permission from the owners of at least 51 percent of the manufactured homes) have "the right to meet the cash price [offered by the prospective buyer] and execute an agreement to purchase the park for the purposes of keeping the park as a manufactured housing community." Minn. Stat. § 327C.095, subd. 6. The same statute requires the park owner to "accept the offer if it meets the cash price and the same terms and conditions set forth in the purchaser's offer." *Id*.

Within the defined 45-day period, appellant Aeon, a nonprofit organization, presented LGP with what it claims was a valid purchase agreement under subdivision 6, a check for the required cash price, and signatures from at least 51 percent of Lowry Grove's manufactured-home owners granting Aeon permission to purchase the park. After reviewing these documents, LGP decided that it was not required by section 327C.095 to accept Aeon's offer for two reasons: Aeon had not obtained written permission from at least 51 percent of the manufactured-home owners in Lowry Park, and the terms of Aeon's purchase agreement were different than those offered by The Village. After the 45-day notice period expired, LGP sold the park to The Village.

Appellants sued under section 327C.095. The complaint contained five counts. Count I alleged that LGP violated Minn. Stat. § 327C.095, subd. 6, by selling the park to The Village after Aeon made a valid offer, and asked the district court to void LGP's conveyance to The Village. Count II alleged that Minn. Stat. § 327C.095, subd. 7, also granted appellants a separate right to purchase the park from The Village, and asked the district court to order The Village to offer the park for sale to them. Count III asked the

district court to grant "injunctive relief" and monetary damages for respondents' violation of subdivision 6. Count IV asked the court to order LGP to specifically perform the terms of Aeon's purchase agreement, because the sale to The Village violated subdivision 6. Count V asked the district court to order LGP to accept Aeon's purchase agreement because LGP had violated subdivision 6; or, in the alternative, enjoin The Village from taking steps to close the park and order The Village to sell the park to Aeon pursuant to subdivision 7.

The parties made cross motions for partial judgment on the pleadings. The district court granted partial judgment on the pleadings in favor of respondents, and dismissed appellants' complaint insofar as it sought injunctive relief. It concluded that any relief to which appellants might be entitled is limited to monetary relief. The district court denied appellants' motion for partial judgment on the pleadings, after it determined that (1) Minn. Stat. § 327C.095, subd. 9, permits only the recovery of monetary damages if a park owner finalizes a sale in violation of subdivision 6; (2) the statute does not violate appellants' due process rights; and (3) appellants do not have an additional right of purchase from The Village under Minn. Stat. § 327C.095, subd. 7. The district court rejected appellants' request for permission to move for reconsideration.

This appeal followed.

D E C I S I O N

Appellants raise three issues on appeal. First, they argue that the district court incorrectly interpreted Minn. Stat. § 327C.095, subd. 9, by interpreting it so as to limit the available remedies to the recovery of money damages. Second, they argue that the district

court's interpretation of section 327C.095 violates their right to due process of law under the United States and Minnesota Constitutions. Finally, appellants argue that Minn. Stat. § 327C.095, subd. 7, provides park residents with a second 45-day right to purchase the park after a buyer who intends to close the park completes a purchase of it.

I. Minn. Stat. § 327C.095, subd. 9, permits equitable relief.

In their original complaint, appellants asked the district court for equitable relief, including voiding the sale between LPG and The Village, ordering respondents to sell the park to appellants, enjoining The Village from closing the park, and granting other unspecified "injunctive relief." The district court determined that Minn. Stat. § 327C.095, subd. 9, "limits post-sale remedies to a claim for monetary damages," and dismissed all of appellants' claims of entitlement to injunctive relief.

Review of this portion of the district court's partial judgment on the pleadings presents a question of statutory construction; we review de novo. *Lee v. Lee*, 775 N.W.2d 631, 637 (Minn. 2009). When interpreting statutes, we seek to "ascertain and effectuate the intention of the legislature." Minn. Stat. § 645.16 (2016). We give effect to the plain meaning of a statute's language when it is clear and unambiguous. *Tuma v. Comm'r of Econ. Sec.*, 386 N.W.2d 702, 706 (Minn. 1986). We seek to effectuate a statute's "essential purpose," but "will not disregard a statute's clear language to pursue the spirit of the law." *Lee v. Fresenius Med. Care, Inc.*, 741 N.W.2d 117, 123 (Minn. 2007).

Subdivision 9 identifies the remedies available to manufactured-home park residents when a park owner violates either subdivision 6 or 7, and provides:

> If a manufactured home park is finally sold or converted to another use in violation of subdivision 6 or 7, the residents do not have any continuing right to purchase the park as a result of that sale or conversion. A violation of subdivision 6 or 7 is subject to section 8.31, except that relief shall be limited so that questions of marketability of title shall not be affected.

Minn. Stat. § 327C.095, subd. 9. Minn. Stat. § 8.31 (2016), entitles injured persons to "equitable relief as determined by the court." Minn. Stat. § 8.31, subd. 3a. Entitlement to equitable relief may not affect "questions of marketability of title," but is otherwise available upon proof of a violation. Minn. Stat. § 327C.095, subd. 9.

Minn. Stat. § 327C.095, subd. 9, therefore unambiguously allows a district court to grant equitable relief, so long as the relief granted does not affect the marketability of title to the real estate on which the manufactured-home park is situated. We next consider whether any or all of appellants' claims of entitlement to equitable relief for the alleged statutory violations would, if granted, affect marketability of title.

Under *Mattson Ridge, LLC v. Clear Rock Title, LLP*, "marketable title is [title] that is free from reasonable doubt; one that a prudent person, with full knowledge of all the facts, would be willing to accept." 824 N.W.2d 622, 628 (Minn. 2012) (quotations omitted). We "evaluate the marketability of title from the viewpoint of the putative purchaser, not from the position of the seller or a third party." *Id*.; *see also Howe v. Coates*, 97 Minn. 385, 397, 107 N.W. 397, 402 (1906) (stating that we do not distinguish between law and equity as to what makes a title unmarketable).

A court order voiding a sale to a purchaser raises doubts as to who owns the land. Such an order would require a purchaser to undertake the burden of litigation to defend his

title to the property. The same is true of a court-ordered sale of the property to appellants when a documented sale to The Village has already been consummated. The district court correctly determined that these types of equitable relief are not permitted by subdivision 9, because they affect marketability of title. *Mattson Ridge*, 824 N.W.2d at 628 ("The primary purpose of requiring marketable title is to protect the purchaser of real property from having to undertake the burden of litigation to remove or defend against real *or* apparent defects in the title.").

But equitable relief not affecting marketability of title is unambiguously available under the statute. Remedies that would not lead prospective purchasers to doubt whether they would, upon purchase, have undisputed title to the property do not affect marketability of title. Expressing no opinion concerning the propriety of such relief, we observe that appellants have suggested equitable remedies for the claimed statutory violations that would not affect marketable title, including an injunction preventing or delaying The Village from closing the park, ordering The Village to pay for residents' relocation costs, ordering appellants to provide educational benefits for children displaced from their school districts, or transportation benefits for residents required to move from the closed park.

We affirm the district court's order denying appellants' request for those forms of equitable relief that affect marketable title, but we reverse that portion of its order determining that no other forms of equitable relief are available. Whether the district court grants other equitable relief on remand lies within the discretion of the district court, and we express no opinion here concerning whether appellants should be afforded any equitable relief on remand or, if such relief is granted, what form or extent of equitable

relief is appropriate under Minn. Stat. § 327C.095, subd. 9. We hold only that the plain language of the statute allows equitable remedies not affecting marketability of title.

II. The statute does not violate appellants' due-process rights.

Appellants argue that an interpretation of Minn. Stat. § 327C.095 that does not permit them injunctive relief to enforce their right of first refusal under subdivision 6 after a sale has been completed in violation of the statute violates their due-process rights under the United States and Minnesota Constitutions.

"Whether procedural due-process rights have been violated is a question of law, which we review de novo." *In re Khan*, 804 N.W.2d 132, 137 (Minn. App. 2011). The United States and Minnesota Constitutions both guarantee the right to due process. U.S. Const. amend. XIV, § 1; Minn. Const. art. I, § 7. "To determine whether a party has a due process claim, we conduct two inquiries, first determining whether the party has a protectable liberty or property interest with which the state interfered and, if so, then determining whether the procedures used were constitutionally sufficient." *C.O. v. Doe*, 757 N.W.2d 343, 349 (Minn. 2008).

The district court determined that the state did not interfere with appellants' right of first refusal under subdivision 6, because subdivision 9 specified that the right of first refusal was limited and could only be enforced until the sale was completed. Appellants argue that the district court's interpretation of the statute renders it unconstitutional. Appellants argue that the legislature cannot grant limited rights of first refusal, where deprivation of the right can be effectuated without due process of law.

Appellants' due-process argument is premised on an employment-law case from over 30 years ago, *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 105 S. Ct. 1487, (1985). In that case, the United States Supreme Court held that the Ohio legislature improperly allowed school boards to fire employees without pretermination hearings. *Cleveland Bd. of Educ.*, 470 U.S. at 542, 105 S. Ct. at 1493. A board of education in that case argued that state employees only had limited property interests in employment, since the right to employment was "defined by, and conditioned on, the legislature's choice of procedures for its deprivation." *Id*. at 539, 105 S. Ct. at 1492. The Supreme Court rejected that argument, stating, "While the legislature may elect not to confer a property interest in [public] employment, it may not constitutionally authorize the deprivation of such an interest, once conferred, without appropriate procedural safeguards." *Id*. at 541, 105 S. Ct. at 1493 (alteration in original).

We decline to apply the reasoning of *Cleveland Bd. of Educ.* to the right of first refusal under Minn. Stat. § 327C.095. In *Cleveland Bd. of Educ.*, state employees had a statutory right to "retain their positions during good behavior and efficient service," and therefore the statute allowing them to be terminated without a hearing deprived an employee of that property interest without due process of law. *Id*. at 538, 542, 105 S. Ct. at 1491, 1493. Here, appellants have no similar statutory right to retain their right of first refusal after the sale to another. The plain language of subdivision 9 limits the time within which the rights granted under the statute may be asserted. The legislature, having identified the period within which the right of first refusal may be exercised, does not offend the rule of law established by *Cleveland Bd. of Educ*.

Moreover, and even if appellants had shown they have a property interest in their right of first refusal, they fail to identify any state action that deprived them of that right. Only state actions are constrained by due-process requirements, and therefore appellants must identify some state action that interfered with their protected property interest. *State v. Beecroft*, 813 N.W.2d 814, 837 (Minn. 2012). Appellants argue that the state acted when the county recorder or registrar of titles recorded the affidavit, stating that the park owner complied with the provisions of section 327C.095. Appellants provide no authority for the proposition that such ministerial acts constitute state action. Alternatively, appellants argue that "[w]hen the operation of state law extinguishes one person's interest in real property in favor of someone else, state action is present without anything further if this effect arose directly and exclusively from the [s]tatute." They cite only Ninth Circuit precedent for this proposition. That precedent is not binding on this court. *See Jendro v. Honeywell, Inc.*, 392 N.W.2d 688, 691 n.1 (Minn. App. 1986) (stating that while statutory construction of federal law by federal courts is entitled to due respect, this court is bound only by the statutory interpretations of the Minnesota Supreme Court and United States Supreme Court), *review denied* (Minn. Nov. 19, 1986). We decline appellants' invitation to expand the scope of "state action" for due-process purposes where the Minnesota Supreme Court has not done so. *See State v. Rodriguez*, 738 N.W.2d 422, 431 (Minn. App. 2007) ("[I]t is not the role of *this* court to make a dramatic change in the interpretation of the Minnesota Constitution when the supreme court has not done so."), *aff'd* 754 N.W.2d 672 (Minn. 2008). We affirm the district court's due-process holding.

III. Minn. Stat. § 327C.095, subd. 7, does not provide a second right of purchase.

Finally, appellants argue that, even if they no longer have a right of first refusal under Minn. Stat. § 327C.095, subd. 6, they nevertheless have a right to purchase the property from The Village after another notice under subdivision 7. The district court rejected this interpretation of the statute, holding that subdivision 7 applies only when the decision to close or convert was made after the sale.

Appellants' argument raises another issue of statutory construction; we again review de novo. *Lee*, 775 N.W.2d at 637. "The purpose of statutory interpretation is to ascertain the intent of the Legislature." *Wayzata Nissan, LLC v. Nissan N. Am., Inc.*, 875 N.W.2d 279, 285 (Minn. 2016). If the words in a statute are clear and unambiguous, we presume the plain meaning is consistent with the legislature's intent. *Id.*; *Tuma*, 386 N.W.2d at 706.

We can easily ascertain the meaning of Minn. Stat. § 327C.095 from its plain language. The statute shows that the legislature contemplated two scenarios and created separate subdivisions to apply in each scenario. First, subdivision 6 applies when, "[b]efore the execution of an agreement to purchase a manufactured home park, the purchaser . . . intends to close the manufactured home park or convert it to another use within one year of the execution of the agreement." Minn. Stat. § 327C.095, subd. 6. The seller in such a case must provide notice of the proposed sale to residents of the manufactured-home park. *Id*. Subdivision 7, on the other hand, plainly applies when "the purchaser of a manufactured home park decides to convert the park to another use within one year after the purchase of the park." Minn. Stat. § 327C.095, subd. 7. In such a case,

the new owner must provide notice. *Id*. The key difference between which of these two subdivisions applies in a given instance is the timing of purchaser's decision to close the park. Subdivision 6 applies when the purchaser buys the park with the intent to close or convert it. Subdivision 7 applies when the purchaser decides after the purchase to close or convert the park. Here, it is undisputed The Village purchased the park with the intent to close it within one year after the purchase. It did not decide to close the park after purchasing it. Subdivision 6 applies to this fact situation; subdivision 7 does not.

CONCLUSION

Minn. Stat. § 327C.095 precludes any grant of equitable relief that affects the marketability of title, but does not preclude other equitable relief. We therefore affirm the district court's dismissal of Counts I, II, and IV of appellants' complaint, but reverse the district court's dismissal of Counts III and V insofar as appellants request equitable relief not affecting marketability of title. We affirm the district court's denial of relief to appellants on due-process grounds and its determination that appellants do not have a second statutory right to purchase the mobile home park under Minn. Stat. § 327C.095, subd. 7. We remand to the district court for further proceedings.

Affirmed in part, reversed in part, and remanded.