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STATE OF MINNESOTA
IN COURT OF APPEALS
A17-0304

Allan H. Zuehlsdorf,
Appellant,

vs.

Carolyn A. Bernard, et al.,
Respondents.

Filed December 26, 2017
Affirmed in part, reversed in part, and remanded.
Reyes, Judge

Redwood County District Court
File No. 64-CV-16-311

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Considered and decided by Reilly, Presiding Judge; Halbrooks, Judge; and Reyes, Judge.

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

REYES, Judge

Appellant challenges the district court's dismissal of his claim for specific performance, grant of partial summary judgment to respondents, and award of $34,423.36

to respondents in rent from 2015 to 2016. We affirm as to the award of rent, reverse the partial summary judgment, and remand for execution of specific performance.

FACTS

This matter involves 120 acres of real property located in Redwood County. Hilbert and Erma Zuehlsdorf (grantors) are the parents of appellant Allan H. Zuehlsdorf (Zuehlsdorf) and respondents Carolyn A. Bernard, Janet E. Barckholtz, and Donna E. Beadell.

On June 17, 1996, grantors executed a warranty deed for 40 acres of real property to Zuehlsdorf, reserving to themselves a life estate in the 40 acres. In the same deed, grantors conveyed the remaining 120 acres of property (the property), which is the subject of this action, to respondents, and reserved to themselves a life estate in the property. The deed also created an option within an option clause that allowed Zuehlsdorf to purchase the property from respondents after grantors' deaths. It states in relevant part that the property is subject to an option "in accordance with the terms of an option executed during the lifetime of the Grantors herein."

On January 4, 2011, grantors executed an option modification, amending the deed's option clause and granting Zuehlsdorf the option to purchase the property at 40% of the then-existing fair market value, and in no event at a price greater than $2,000 per acre. The option modification provided that Zuehlsdorf's option would last for a period of one year from the March 1 after the death of the survivor, to terminate on February 28 of the year thereafter. Respondents did not dispute the creation of the option in the deed or its subsequent modification prior to the deaths of grantors.

Hilbert predeceased Erma, who died on April 21, 2015. On February 25, 2016, Zuehlsdorf notified respondents of his intent to exercise his option. Respondents declined to sell the property to Zuehlsdorf, arguing that the option was void.

Zuehlsdorf filed a complaint seeking specific performance for enforcement of the option. Respondents filed an answer seeking a declaratory judgment for the rental value of the property for the period when Zuehlsdorf used it and a motion for partial summary judgment seeking dismissal of Zuehlsdorf's claim for specific performance.

The district court granted respondents' motion for partial summary judgment and ordered judgment entered on respondents' counterclaim against Zuehlsdorf in the amount of $34,423.36 in rent based on the fair rental price of the property for the time period between 2015 and 2016 when he had used the property.

This appeal follows.

D E C I S I O N

I. Grantors clearly intended to grant Zuehlsdorf an option to purchase the property.

Zuehlsdorf argues that the district court erred when it granted partial summary judgement to respondents and dismissed his claim for specific performance of the option. We agree.

We review a district court's summary-judgment decision de novo, analyzing "whether there are any genuine issues of material fact and whether the district court erred in its application of the law to the facts." *Commerce Bank v. W. Bend Mut. Ins. Co.*, 870 N.W.2d 770, 773 (Minn. 2015). When there are no genuine issues of material fact, as here,

we review de novo the district court's application of the law to the undisputed facts. *Erdman v. Life Time Fitness, Inc.*, 788 N.W.2d 50, 54 (Minn. 2010). "We view the evidence in the light most favorable to the party against whom summary judgment was granted." *STAR Ctrs., Inc. v. Faegre & Benson, L.L.P.*, 644 N.W.2d 72, 76-77 (Minn. 2002). Finally, contract interpretation is a question of law that we review de novo. *Caldas v. Affordable Granite & Stone, Inc.*, 820 N.W.2d 826, 832 (Minn. 2012).

A. The intent of the grantors controls our interpretation of the option and deed.

Zuehlsdorf argues that the district court erred in focusing its analysis on the future interest conveyed to respondents rather than the intent of the grantors. We agree.

We interpret options and deeds using principles of contract interpretation. *Nafstad v. Merchant*, 303 Minn. 569, 571, 228 N.W.2d 548, 550 (1975) (rules for construing contracts apply to options); *Danielson v. Danielson*, 721 N.W.2d 335, 338 (Minn. App. 2006) (rules for construing contracts apply to deeds). We enforce the intent of the parties as expressed by the clear and unambiguous contract language. *Storms, Inc. v. Mathy Constr. Co.*, 883 N.W.2d 772, 776 (Minn. 2016). Unambiguous contract language "must be given its plain and ordinary meaning, and shall be enforced by the courts even if the result is harsh." *Denelsbeck v. Wells Fargo & Co.*, 666 N.W.2d 339, 346-47 (Minn. 2003).

Here, the parties do not contest the district court's finding that the deed is unambiguous, and we agree. The option's plain language states that the property "is subject to an option to [Zuehlsdorf] to purchase these premises in accordance with the terms of an option executed during the lifetime of the Grantors herein." Grantors clearly

and unambiguously intended to convey the property to respondents subject to Zuehlsdorf's option to purchase. The district court erred in focusing on the future interest conveyed to respondents rather than the overall intent of the grantors as evidenced by the plain language of the deed.

B. The deed and option modification must be construed as one transaction.

Zuehlsdorf argues that the district court erred in finding that the deed did not create his option because it did not contain the necessary substantive conditions of the sale. Zuehlsdorf's argument has merit.

When construing a contract "[s]eparate writings as part of the same transaction must be construed together." *Wm. Lindeke Land Co. v. Kalman*, 190 Minn. 601, 607, 252 N.W. 650, 652 (1934).

> Where several instruments are made as part of one transaction, they will be read together, and each will be construed with reference to the other. This is true, although instruments do not in terms refer to each other. So if two or more agreements are executed at different times as part of the same transaction they will be taken and construed together.

Id. at 607, 252 N.W. at 653 (quotation omitted). Moreover, "[w]here one instrument refers to another for any purpose, the latter, for the purpose and to the extent of the reference, will be deemed part of the former." *In re Holtorf's Estate*, 224 Minn. 220, 223, 28 N.W.2d 155, 157 (1947) (quotation omitted).

Grantors specifically included a provision providing for the option's subsequent modification. Because we interpret options strictly in favor of the party creating the option, we construe the deed and option modification together based on the clear intent of the

grantors. *See Abrahamson v. Abrahamson*, 613 N.W.2d 418, 423 (Minn. App. 2000) (courts must construe options strictly in favor of the grantor and accept it according to its terms); *Farrell v. Johnson*, 442 N.W.2d 805, 807 (Minn. App. 1989) (documents should be treated as a single contract based on parties' intent).

Grantors unambiguously intended to construe the deed and option modification as one transaction. The district court erred in reading the deed in isolation and finding that it did not contain the details necessary to create an option.

II. Minn. Stat. § 500.15 does not bar grantors' execution of the option modification.

Zuehlsdorf argues that the district court erred when it found that Minn. Stat. § 500.15, subd. 2 (2016), barred grantors' execution of the option modification following the creation of the deed. We agree.

The interpretation of a statute and its application to undisputed facts are questions of law that we review de novo. *Davies v. W. Publ'g Co.*, 622 N.W.2d 836, 841 (Minn. App. 2001), *review denied* (Minn. May 29, 2001).

Minn. Stat. § 500.15 states in its relevant part:

> Subdivision 1. Owner's destruction of precedent estate.
> No expectant estate can be defeated or barred by any alienation or other act of the owner of the intermediate estate or precedent estate, nor by any destruction of such precedent estate, by disseisin, forfeiture, surrender, merger, or otherwise.
>
> Subdivision 2. Exception.
> Subdivision 1 shall not be construed to prevent an expectant estate from being defeated in any manner, or by any act or means, which the party creating such estate has, in the creation thereof, provided or authorized; nor shall an expectant estate

> thus liable to be defeated be on that ground adjudged void in its creation.

The district court determined that Zuehlsdorf's option was created in the option modification, rather than in the deed's option clause, and that subdivision 2 accordingly barred grantors' ability to divest respondents' expectant estate.

As previously stated, Zuehlsdorf's option was created in the deed. Subdivision 2 provides for the permissible defeasance of respondents' expectant estate when grantors provide for its defeasance within the same instrument creating respondents' expectant estate. Here, the option is within subdivision 2's exception to subdivision 1's general rule. Therefore, the district court erred in its interpretation of Minn. Stat. § 500.15 because Zuehlsdorf's option was created in the deed and is permissible under subdivision 2.

III. The district court did not err in ordering Zuehlsdorf to pay rent to respondents from 2015 to 2016.

Zuehlsdorf argues that the district court erred when it awarded $34,423.36 to respondents in rent from 2015 to 2016. We disagree.

The option modification provides "[d]uring the option period, [Zuehlsdorf] shall have the right to rent the farm land under the same terms and conditions as existed prior to the death of the survivor of parties of the first part." The surviving grantor died on April 21, 2015, and Zuehlsdorf did not attempt to exercise his option until February 25, 2016. During this time, Zuehlsdorf used the property. The district court did not err in assessing rent owed to respondents for this time period.

Affirmed in part, reversed in part, and remanded.