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**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1913**

Judy E. Adams,
Appellant,

vs.

Melrose Community, LLC,
Respondent.

**Filed September 24, 2018
Affirmed
Smith, John, Judge***

Hennepin County District Court
File No. 27-CV-15-18721

Judy E. Adams, Lino Lakes, Minnesota (pro se appellant)

Sarah R. Jewell, Franz Hultgren Evenson, P.A., St. Cloud, Minnesota (for respondent)

Considered and decided by Kirk, Presiding Judge; Reilly, Judge; and Smith, John,
Judge.

UNPUBLISHED OPINION

SMITH, JOHN, Judge

We affirm the district court's judgment in favor of respondent on appellant's breach-of-contract claims, declaring that respondent is obligated to convey a parcel of property to

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

appellant via quitclaim deed, and in favor of respondent on its counterclaim against appellant, because appellant failed to establish that respondent breached the contract between them, and respondent established that it paid a \$34,007.56 tax debt rightly owed by appellant.

FACTS

I. The Real Property

In 2001, Rose Park, LLC, (Rose Park) a company partially owned by appellant Judy E. Adams, purchased a trailer park and surrounding property on a contract for deed from the Klein family. The property consisted of a 69-unit mobile-home park (“the park”), a large machine shed (“Parcel A1”), a building with two one-bedroom apartments (“Parcel A2”), a manufactured home on a full basement, an open field (“Parcel A3”), and an open field containing a mini-storage building and peat bog (“Parcel B”). Rose Park’s interest in the property was subsequently assigned to Adams and then to Rose Light Construction, LLC, (Rose Light) an LLC owned solely by Adams.

In August of 2009, Rose Light was behind in its payments on the contract for deed and therefore at risk of having the contract cancelled for nonpayment. Adams considered selling the park to several buyers, but ultimately sold it to Melrose Community, LLC, (Melrose) an LLC created and solely owned by John Bonner, Adams’s attorney at the time. On October 29, Rose Light and Melrose executed a contract stating:

1. [Rose Light Construction, LLC] will convey to limited liability company known as Melrose Community, LLC, a Minnesota limited liability company (sometimes hereafter referred to as “I” or “me”), your entire interest subject to the Contract For Deed, in the real property owned by you

which is the subject of the Contract For Deed Cancellation. I will furnish an amount, currently believed to be between \$50,000 to \$80,000 to cure any monetary defaults currently claimed in the Cancellation Notice. Prior thereto, you will have conveyed your entire interest, and the entire interest of Rose Light Construction, LLC and any other entity owning any interest in the property to Melrose Community, LLC. Additionally, you will cause to be assigned all of the interest of the foregoing in the Contract For Deed and will further convey by Bill of Sale all rights and all personal property owned by you or Rose Light Construction, LLC relative to the manufactured home community including:

- a. Vehicles,
- b. Equipment,
- c. Tools,
- d. All receivables owed by tenants for rents, sewer and water, trash removal, and late fees, a list of which shall be furnished prior to any conveyance of the property, and
- e. All other personal property used in conjunction with the operation of the manufactured home community.

....

- 6. I have advised you that it is my intention to promptly apply for substitute financing and to place a mortgage on the manufactured home community and to convey to you at such time the adjacent non-income producing property. I reserve the right however to determine whether or not the shed is a necessary part of the manufactured home community operation. In the event that I determine that it is not a necessary part of the operation, I will convey that along with all of the other adjacent non-income producing acreage.

....

- 8. Additionally, I will agree to rent to you and furnish access to the non-income producing property pending the refinance of the manufactured home community on a year-to-year basis for a rental payment of \$1.00 plus related real estate taxes.

Prior to executing the agreement, Bonner had approached Landmark Community Bank (Landmark) regarding substitute financing and placing a mortgage on the mobile-home park. Those discussions continued into 2010, and by February of that year, Bonner had obtained enough financial information about the park for the bank to give that information to an appraiser. The appraisal was completed on March 22, and on June 24, Landmark sent Bonner a letter saying, “Subject to satisfactory title, loan documentation and finalization of underwriting, we have agreed to advance the sum of \$350,000 We anticipate closing this loan following receipt of satisfactory title evidence and a survey of the subject property.” In July, the title company hired completed its review, but raised a title objection to the bank, indicating that “it appeared to them that a new legal description would be needed.” After that, it took “at least a couple of months to get done with the new survey and the new legal description.”

By November 2010, Adams was dissatisfied with the amount of time it was taking Bonner to obtain substitute financing. On November 1, she served Melrose with a notice for the termination of the contract for the conveyance of real property on the basis that Melrose was in default for failing to reconvey the non-income-generating property. Adams filed that action in Hennepin County, but the case was venued in Stearns County and consolidated with an action by Adams to evict Melrose’s agents from the park and to enjoin Stearns County from demolishing several of Adams’s mobile homes. Ultimately, all of those actions were dismissed on July 20, 2011. In the interim, Rose Light assigned all of its rights under the contract with Melrose to Adams.

Seven months passed. On February 14, 2012, Bonner, now in possession of a new survey and a revised legal description of the properties, filed a petition in Stearns County District Court for proceeding subsequent to initial registration, the next step in updating the registered legal description of the properties kept by the county recorder. While that action was pending, Rose Light filed a claim of unregistered interest based upon the claim that an equitable lien had arisen from the 2009 contract. Adams filed a similar claim in her individual capacity. In August of 2013, the Stearns County District Court issued an order for new legal descriptions of the properties to be issued, and also ordered that the liens claimed by Rose Light and Adams not be carried over to the new records. A month and a half later, on September 25, Melrose obtained a mortgage on the mobile-home-park real property.

Adams appealed the proceeding-subsequent order, and this court affirmed that decision on August 25, 2014. In June of 2014, while that appeal was pending, Melrose offered to convey the non-income-generating property to Adams on the conditions that Adams (1) pay delinquent taxes on that property, (2) reimburse Melrose for the assessment (discussed below) imposed by the county on that property, and (3) satisfy two outstanding mortgages on that property. After the proceeding-subsequent decision was affirmed, Melrose executed a quitclaim deed to Adams for the property and told Adams she could arrange a time to pick up the deed. Adams never arranged to do so.

II. The Mobile Homes

When Rose Park purchased the mobile-home park in 2001, it acquired not only the real property where the park was located, but also title to several mobile homes located in

the park. In August of 2010, Stearns County performed an inspection of several of the homes to clarify their ownership status and identify public-health nuisances. Twelve of Adams's homes were identified as public-health nuisances, and the county told Adams to remove them from the park. She was also told that, if she failed to remove the homes, the county would remove them and assess the cost on the park's property taxes. Adams contested the nuisance abatement in court, but was ultimately unsuccessful. The county demolished the mobile homes, and an assessment lien was placed on the real property for \$34,007.56 ("the demolition assessment"). When Melrose obtained a mortgage on the income-generating property, Bonner paid off the assessment.

III. Procedural History

On October 26, 2015, Adams brought a breach-of-contract claim against Melrose, Bonner, and his law firm. The defendants filed an answer denying any breach and a counterclaim that sought indemnification for the cost of paying off the demolition assessment. The district court dismissed the claims against Bonner and his law firm, allowed the claim against Melrose to go to trial, and held a bench trial on June 12 and 13, 2017.

On October 6, the district court ordered judgment in favor of Melrose on Adams's breach-of-contract claim, declaring that Melrose was obligated to convey Parcel B to Adams via quitclaim deed, and ordered judgment in favor of Melrose on its indemnification counterclaim. Judgment was entered against Adams, Rose Light, and Rose Park on November 6. On November 15, Adams, now proceeding pro se, filed a letter and affidavit with the district court that raised numerous issues with the trial and requested that the case

be reopened. The district court construed the letter as a motion for reconsideration under Minn. R. Gen. Pract. 115.11. The district court denied her motion, noting that the proper method for seeking modification of the district court's findings and order was a motion under Minn. R. Civ. P. 52.02, but that it would reach the same conclusion regardless of which rule the motion was made under. However, on November 28, the district court did file an order removing Rose Light and Rose Park as parties subject to the judgment.

Adams appealed the order granting judgment in favor of Melrose and the order denying her motion for reconsideration. A special term panel of this court issued an order construing her appeal as taken from the judgment because an order for judgment and order denying reconsideration are not independently appealable. Adams then filed a motion for reconsideration of this court's order, which a special term panel likewise rejected as being unauthorized by the Minnesota Rules of Civil Appellate Procedure.

D E C I S I O N

We note at the outset that, although Adams purports to raise numerous issues with the decision of the district court, she cites no legal authority in support of any of her arguments. "Although some accommodations may be made for pro se litigants, this court has repeatedly emphasized that pro se litigants are generally held to the same standards as attorneys and must comply with court rules." *Beardsley v. Garcia*, 731 N.W.2d 843, 850 (Minn. App. 2007) (quotation omitted), *aff'd* 753 N.W.2d 735 (Minn. 2008). One such requirement is that claims of error must be supported by argument and citation to legal authority. *Schoepke v. Alexander Smith & Sons Carpet Co.*, 187 N.W.2d 133, 135 (Minn. 1971). Absent such support, arguments are waived unless prejudicial error is

obvious on mere inspection. *Id.* Because Adams did not include such support, we confine our review to whether mere inspection reveals prejudicial error in the district court's order.

In reviewing the record for error, we review “whether the district court's findings were clearly erroneous and whether the district court erred as a matter of law.” *In re Distrib. of Attorney's Fees between Stowman Law Firm, P.A. & Lori Peterson Law Firm*, 855 N.W.2d 760, 761 (Minn. App. 2014), *aff'd* 870 N.W.2d 755 (Minn. 2015). A factual finding is not clearly erroneous “if there is reasonable evidence in the record to support the court's findings. And when determining whether a finding of fact is clearly erroneous, we view the evidence in the light most favorable to the verdict.” *Rasmussen v. Two Harbors Fish Co.*, 832 N.W.2d 790, 797 (Minn. 2013) (quotations and citations omitted). “We review issues of law de novo.” *Stowman*, 855 N.W.2d at 761.

I. The breach-of-contract verdict is supported by the evidence.

Adams first challenges the portions of the district court's judgment in favor of Melrose on Adams's breach-of-contract claim and determination that a quitclaim deed was an acceptable method for transfer of the property. Adams raises four challenges: (A) Melrose failed to convey all of the property to which she was entitled under the contract; (B) trespass actions filed against Adams constituted a breach of the contract; (C) Melrose did not *promptly* convey the property; and (D) the contract obligated Melrose to transfer the property via warranty deed. We address each of these arguments in turn.

A. Determination of property to be conveyed

Adams first argues that she was entitled to more than just Parcel B under the contract. That contract required Melrose to “place a mortgage on the manufactured home

community and to convey . . . the adjacent non-income producing property,” with the exception that Melrose could keep title to land containing a machine shed if Melrose determined that the shed was necessary for operation of the mobile-home park. “Absent ambiguity, the interpretation of a contract is a question of law.” *Roemhildt v. Kristall Dev., Inc.*, 798 N.W.2d 371, 373 (Minn. App. 2011), *review denied* (Minn. July 19, 2011).

All parties agree that the park is income-producing property. Adams argues, however, that the evidence shows Parcel A1 (the machine shed), Parcel A2 (the two-apartment building), and Parcel A3 (the home and open field) were “adjacent non-income producing property,” and that she was therefore entitled to transfer of that property under the contract.

The district court found otherwise. The court found that Parcel A1 was necessary for operating the mobile-home park (and thus could be kept by Melrose based on the contract), that Parcel A2 produced income through the renting out of at least one of the apartments therein, and that Parcel A3 produced income through the renting out of the manufactured home situated there. These findings are supported by the record and not clearly erroneous. Bonner testified that, after Melrose became owner of the park, it became clear that the machine shed on Parcel A1 was necessary for the mobile-home park’s operation. And Adams testified that she rented out the residences on Parcels A2 and A3. We conclude that the district court did not err in finding that those parcels were income generating and therefore not subject to transfer under the contract.

B. Trespass actions as breach

Adams next argues that Melrose breached the contract by serving trespass notices on Adams, which prevented her from accessing property she leased from Melrose under the contract (specifically Parcel B).

The district court's order does not specifically address these trespass notices. However, viewing the evidence in the light most favorable to the verdict, *Rasmussen*, 832 N.W.2d at 797, error in this regard is not obvious upon mere inspection. The only evidence that Adams was prohibited from entering Parcel B was her own testimony. The district court could have reasonably disbelieved this testimony and concluded that Bonner's description of the notices—prohibiting Adams from entering the park unless she had the park manager's consent—was the true description. We conclude that the district court did not err in denying a breach-of-contract claim premised on this trespass-notice theory.

C. Promptness of conveyance

Adams's third argument is that Melrose breached the contract because it took over four-and-a-half years for Melrose to transfer any of the property to Adams, in violation of the provision of the contract calling for Melrose to "promptly" obtain substitute financing and then convey back the non-income-producing property. She also argues that, because it took so long to obtain substitute financing, Melrose was obligated to transfer the non-income-producing property once it had the necessary funds to buyout Parcel B from the contract for deed, even if it had not yet obtained the substitute financing.

We reject Adams's buyout argument as being contrary to the plain language of the contract. The contract clearly contemplated Melrose's performance of reconveying the

non-income-generating property as occurring “at such time” as Melrose “place[d] a mortgage on the manufactured home community.” When a contract explicitly provides a time for performance, that timing controls. *See Associated Cinemas of Am. v. World Amusement Co.*, 276 N.W. 7, 10 (Minn. 1937). Therefore, Melrose had no obligation to convey Parcel B, regardless of its capability of doing so, before it obtained a mortgage on the park.

Turning to Adams’s argument that taking four-and-a-half years to obtain a mortgage is not *promptly* obtaining a mortgage, it was not clearly erroneous for the district court to conclude that, in light of the intervening events between when the contract was signed and when Melrose obtained a mortgage, Melrose acted promptly to obtain substitute financing. Bonner was in contact with a lending institution before the contract was executed. Once the contract was executed, the bank required several months’ worth of records of the mobile-home park’s operations to determine the income and expenses associated with it. After Melrose had four months’ worth of records, it promptly provided those records to the bank, which then required an assessment. Within nine months of executing the contract, Melrose had a commitment from the bank to provide financing, subject to receipt of satisfactory title evidence, a survey, and finalization of the bank’s underwriting.

That title review and survey, however, indicated that there were problems with the legal description of the property, necessitating a second survey to determine a proper legal description. Once Melrose had the necessary information, it filed a petition for proceeding subsequent, but Adams further slowed the process by filing claims of unregistered interest on the property and then unsuccessfully appealing that proceeding when the district court

ordered that those claims would not be carried over to the new legal description. While that appeal was pending, Melrose finally obtained a mortgage, but, because the appeal raised questions as to Melrose's and Adams's interest in the property, the property could not be conveyed to Adams while the appeal was pending. Two months after Adams's appeal was dismissed, Melrose offered to convey Parcel B to Adams via quitclaim deed, but Adams refused to accept the deed.

These facts indicate that, from the time Melrose executed the contract, it reasonably and promptly took all the steps necessary to obtain a mortgage on the park. Although there were delays in doing so, those delays were not caused by Melrose (indeed, some were caused by Adams), and Melrose acted promptly to address them as they arose. We conclude that the record supports the district court's conclusion that, under the circumstances, Melrose promptly obtained refinancing of the park.

D. Method of transfer

Adams's final argument regarding her breach-of-contract claim is that the contract required Melrose to convey the property via warranty deed.

The language of the contract was silent as to the method of conveyance, saying only that Melrose would "convey to [Park Light] . . . the adjacent non-income producing property." The district court concluded that, based on this ambiguity, any reasonable conveyance method was acceptable and that a quitclaim deed was such a method.

We agree with the conclusion of the district court that the contract is ambiguous and that proper resolution of this ambiguity permits Melrose to fulfill its conveyance obligation via quitclaim deed. Two principles of contract interpretation lead us to this conclusion.

First, when the same word is used in separate sections of a contract, it should ordinarily be given the same meaning. *See Akers v. Akers*, 46 N.W.2d 87, 92 (Minn. 1951). Second, the past practice of the parties to a contract is relevant to determining the parties' intent. *See Ramsey Cty. v. Am. Fed. of State, Cty., & Mun. Emps. Council 91, Local 8*, 309 N.W.2d 785, 793 (Minn. 1981).

Applying these principles to this case, we find it significant that under the contract Rose Light was obligated to “convey” its entire interest in the property to Melrose, and it did so via quitclaim deed. This indicates that Adams took “convey” to mean “convey via quitclaim deed” elsewhere in the contract and that it was the past practice of the parties to perform their conveyance obligations under the contract via quitclaim deed. As a result, we conclude that the district court did not err in declaring that Melrose could satisfy its conveyance obligation under the contract by conveying Parcel B to Adams via quitclaim deed.

II. The indemnification verdict is supported by the evidence.

Adams also challenges the portion of the district court's judgment in favor of Melrose on its counterclaim for indemnification for paying off the demolition assessment. Because Adams's arguments on this issue are entirely directed towards relitigating whether the city had the authority to condemn and destroy the mobile homes—which is beyond the purview of this record and unsupported by citation to legal authority—we limit our review to whether error on this verdict is obvious upon mere inspection. *See Schoepke*, 187 N.W.2d at 135.

Indemnity can “arise[] from principles of equity and fairness, rather than a contractual obligation,” such as when “a party fails to discover or prevent another’s fault and, consequently, pays damages for which the other party is primarily liable.” *United Prairie Bank-Mountain Lake v. Haugen Nutrition & Equip., LLC*, 813 N.W.2d 49, 56 n.2 (Minn. 2012).

The district court concluded that Adams was liable to Melrose for the demolition assessment because Melrose was required to pay off that assessment as part of obtaining refinancing of the park, yet the assessment was incurred as a result of the condition of Adams’s property. The record supports this conclusion. Adams, or an entity over which she had exclusive control, was the sole owner of the mobile homes subject to the abatement order. She was thus the only one who could remedy the public-health-nuisance status of the 12 mobile homes subject to demolition. Yet, because the mobile homes were located on Melrose’s property, it was Melrose’s property that incurred the demolition assessment. Moreover, in order for Melrose to obtain refinancing of the park (a necessary step on the road to the reconveyance of Parcel B to Adams) it had to pay off that assessment. Based on these facts, it is apparent that Melrose paid “damages for which the other party is primarily liable,” and the district court did not err in concluding that equity entitled Melrose to indemnification for the expense of paying off the demolition assessment.

III. Mere inspection does not sustain any of Adams’s other claims of error.

The remainder of Adams’s claims of error generally concern relitigation of the proceeding subsequent, arguments that Bonner breached his fiduciary duties as her attorney, and other arguments that were never presented to the district court. “A reviewing

court must generally consider only those issues that the record shows were presented and considered by the trial court in deciding the matter before it.” *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (quotation omitted). Because the remainder of Adams’s arguments were never raised in the district court, they are outside the purview of the record, and are forfeited.

Affirmed.