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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0972**

Francis J. Schumacher,
Respondent,

vs.

KMLE, INC., et al.,
Appellants.

**Filed January 6, 2020
Affirmed
Reilly, Judge**

Nicollet County District Court
File No. 52-CV-16-553

Rick J. Halbur, Dean M. Zimmerli, Gislason & Hunter LLP, New Ulm, Minnesota (for respondent)

Kevin K. Shoeberg, Kevin K. Shoeberg, P.A., Woodbury, Minnesota (for appellants)

Considered and decided by Reilly, Presiding Judge; Bjorkman, Judge; and Cochran, Judge.

UNPUBLISHED OPINION

REILLY, Judge

In this dispute over the ownership of real property, appellants challenge the district court's grant of summary judgment in respondent's favor on respondent's claim for determination of adverse claims. We affirm.

FACTS

This appeal involves a dispute over a 55-acre parcel of real property located near Courtland. The following facts are undisputed and recited in the light most favorable to appellants. *See Fabio v. Bellomo*, 504 N.W.2d 758, 761 (Minn. 1993) (noting that appellate courts view the record evidence “in the light most favorable to the party against whom [summary] judgment was granted”).

The property was owned by appellants David A. Machau and Lori Stevensen, who are in a long-term romantic relationship and have three children together, and their limited-liability company KMLE Inc. (KMLE). Respondent Francis J. Schumacher claims ownership in the property following redemption from mortgage foreclosure.

Machau purchased the property on a contract for deed in 1976. In 1998, Machau and Stevensen formed KMLE for the benefit of their children. Stevensen was the sole owner and officer of KMLE. Machau transferred the property to KMLE at that time. The property was KMLE’s sole asset. In 2002, KMLE borrowed money from the bank and secured repayment of the loans with two mortgages on the property. When the loans went into default in 2005, the bank commenced foreclosure proceedings on the property. A sheriff’s sale on April 27, 2005 foreclosed on the first mortgage on the property, and a second sheriff’s sale on May 4, 2005 foreclosed on the second mortgage on the property.

In the fall of 2005, Stevensen obtained employment with a company that did business in Iraq. Around the same time, Machau began looking for someone to provide a loan to KMLE to redeem the property and provide security in the event anything happened to Stevensen while she was in Iraq. Machau spoke to Schumacher about the possibility of

transferring the redemption rights on the property from KMLE to Schumacher. Stevensen and Machau also prepared a power of attorney naming Schumacher as Stevensen's alternate attorney-in-fact.

On October 28, 2005, Stevensen, in her capacity as KMLE's president, assigned KMLE's redemption rights to the property to Schumacher. The Assignment of Redemption Rights Agreement provided that: "For one dollar (\$1.00) and other good and valuable consideration, [KMLE] does hereby sell, transfer and convey to Francis J. Schumacher, the redemption right to real property in Nicollet County Minnesota." The agreement was notarized on the same day. On October 28 or 29, 2005, Stevensen and Machau gave Schumacher the notarized agreement and Stevensen's power-of-attorney form.

KMLE's right to redeem the property from the first sheriff's sale expired on April 27, 2006, and the right to redeem the property from the second sheriff's sale expired on May 4, 2006. On April 27, 2006, Schumacher presented a check in the total amount of \$162,430.70 to the bank to redeem the property from foreclosure from both sheriff's sales, including \$63,780.23 related to the April 27, 2005 sheriff's sale, and \$98,650.47 related to the May 4, 2005 sheriff's sale. Schumacher gave the check to a bank representative, who handed Schumacher an abstract to the property. At that point, Schumacher considered himself to be the owner of the property. An attorney drafted two Certificates of Redemption: one in the amount of \$63,780.23 for the April 27, 2005 sheriff's sale, and one in the amount of \$98,650.47 for the May 4, 2005 sheriff's sale. Both certificates provided that:

[The bank] . . . does hereby certify that on the 27th day of April, 2006, it received from [KMLE], a Minnesota corporation [amount] in full redemption of the tract of land lying and being in the County of Nicollet, described as [legal description] and that said redemption was made upon the claim following, to wit: [KMLE], a Minnesota corporation as owner of the real estate at the time of foreclosure sale.

After redeeming the property, Schumacher instructed an attorney to record the certificates of redemption and assignment of redemption rights. A county recorder recorded the Assignment of Redemption Rights and Certificates of Redemption on May 5, 2006.

Machau asserts that he “provided most of the labor for the farming operation” from 2007 to 2015, and “provided the labor for equipment repairs and rebuilding equipment.” Machau claims that the parties agreed that Machau could buy the property back from Schumacher, and that the value of Machau’s labor would be deducted from the cost of the property. Stevensen and Machau lived on the property from 2006 until 2016, but the relationship between Stevensen, Machau and Schumacher deteriorated in 2015 or 2016. In 2016, Schumacher demanded that Stevensen and Machau vacate the property.

In September 2016, Schumacher initiated a seven-count civil complaint against Stevensen, Machau, and KMLE for an action to determine adverse claims, among other causes of action. Appellants filed an answer and asserted numerous counterclaims. In July 2018, the district court granted summary judgment in Schumacher’s favor on his action to determine adverse claims and determined that Schumacher was the sole owner of the property. The district court later dismissed appellants’ counterclaims against Schumacher and dismissed Schumacher’s alternative claims as moot in light of the district court’s July 2018 order. These cross-appeals follow.

DECISION

I. Summary Judgment Legal Standard

Summary judgment is appropriate if the record reflects “no genuine issue as to any material fact” and the moving party “is entitled to judgment as a matter of law.” Minn. R. Civ. P. 56.01. On appeal, “[w]e review a district court’s decision to grant summary judgment de novo to determine whether any genuine issue of material fact exists and whether the district court correctly applied the law.” *Citizens State Bank Norwood Young Am. v. Brown*, 849 N.W.2d 55, 61 (Minn. 2014). The interpretation of a statute presents a question of law, which we review de novo. *Eagle Lake of Becker Cty. Lake Ass’n v. Becker Cty. Bd. of Comm’rs*, 738 N.W.2d 788, 792 (Minn. App. 2007). “[W]e may affirm a grant of summary judgment if it can be sustained on any grounds.” *Doe v. Archdiocese of St. Paul*, 817 N.W.2d 150, 163 (Minn. 2012).

II. The District Court Did Not Err by Granting Summary Judgment in Schumacher’s Favor on the Action to Determine Adverse Claims.

a. Assignment of Rights and Redemption

Schumacher asserted a cause of action to determine adverse claims to real property. An action to determine adverse claims to property is equitable in nature and district courts have broad discretion in fashioning a remedy. *Gabler v. Fedoruk*, 756 N.W.2d 725, 730 (Minn. App. 2008). An action to determine adverse claims is defined as follows:

Any person in possession of real property personally or through the person’s tenant, or any other person having or claiming title to vacant or unoccupied real property, may bring an action against another who claims an estate or interest therein, or a lien thereon, adverse to the person bringing the

action, for the purpose of determining such adverse claim and the rights of the parties, respectively.

Minn. Stat. § 559.01 (2018).

The timeline of events is undisputed. Stevensen, as KMLE's president, assigned KMLE's redemption rights to the property to Schumacher on October 28, 2005. "An assignment is simply the transfer of rights or property." *S O Designs USA, Inc. v. Rollerblade, Inc.*, 620 N.W.2d 48, 54 (Minn. App. 2000) (quotation omitted), *review denied* (Minn. Feb. 21, 2001). An assignment "operates to place the assignee in the shoes of the assignor, and provides the assignee with the same legal rights as the assignor had before assignment." *Ill. Farmers Ins. Co. v. Glass Serv. Co.*, 683 N.W.2d 792, 803 (Minn. 2004).

The loans went into default in 2005 and the bank commenced foreclosure proceedings on the property. With respect to large agricultural lands, the foreclosure statute provides that:

[W]hen lands have been sold in conformity with [statutory requirements], the mortgagor, the mortgagor's personal representatives or assigns, within 12 months after such sale, may redeem such lands in accordance with the provisions of payment of subdivision 1 thereof[.]

Minn. Stat. § 580.23, subd. 2 (2018).

The right to redeem the property from the first sheriff's sale expired on April 27, 2006. Schumacher exercised his right of redemption by presenting a check to the bank on

the same day.¹ Following payment, an attorney mailed the Assignment of Redemption Rights and the Certificates of Redemption to the county recorder's office. These documents were recorded on May 5, 2006. The district court determined that the "assignment unambiguously conveyed all of KMLE's redemption rights in the property to [Schumacher]," and that the plain language of section 580.23, subdivision 2, allows for redemption of land by a mortgagor's assignee. The district court reasoned that Schumacher "acquired a valid and enforceable right to redeem the property," and redeemed the property by delivering payment of \$162,430.70 to the bank on April 27, 2006.

We discern no error in the district court's order. There is no Minnesota caselaw addressing the enforceability of assignment rights in this context. Minnesota courts often review caselaw from other jurisdictions when our own law is undefined. *See Mahowald v. Minn. Gas Co.*, 344 N.W.2d 856, 861 (Minn. 1984) (recognizing that foreign cases are not binding precedent but may have persuasive value). In *Farmers Prod. Credit Assoc. v. McFarland*, a junior mortgage lienholder and an assignee of the mortgagors both attempted to redeem property after the senior mortgagee's foreclosure. 374 N.W.2d 654, 655 (Iowa 1985). The *McFarland* court held that the plain language of the relevant statute "give[s] the assignee the same quantity and quality of rights as the debtor," and the assignee had the "right to title under the assignment[]" upon tendering payment to redeem the property. *Id.* at 656, 659. We find this reasoning persuasive. Moreover, the plain language of section 580.23 unambiguously allows for an assignee of redemption rights to redeem

¹ As noted earlier, Schumacher presented one check to redeem the property from foreclosure from both sheriff's sales.

real property in foreclosure. *See* Minn. Stat. § 580.23, subds. 1, 2 (2018) (discussing redemption period), 580.25 (2018) (discussing redemption process). We therefore conclude that the Assignment of Redemption Rights to Schumacher, and his subsequent tender of full payment to the bank, conveyed title to the property to Schumacher.

b. Parol Evidence Rule

Appellants argue that any purported assignment of rights to Schumacher was invalid because the assignment agreement was conditional and only intended to be exercised if something happened to Stevensen in Iraq. This argument is premised on the consideration of parol evidence. When there is an unambiguous integrated written contract, “[t]he 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. of Rochester v. Delta Dental Plan of Minn.*, 664 N.W.2d 303, 312 (Minn. 2003) (quotation omitted). However, when “a written agreement is ambiguous or incomplete, evidence of oral agreements tending to establish the intent of the parties is admissible.” *Id.* (quotation omitted); *see also Mollico v. Mollico*, 628 N.W.2d 637, 640-41 (Minn. App. 2001) (permitting courts to consider parol evidence to resolve ambiguity in real estate contract). “Whether a contract is ambiguous is a question of law that we review de novo.” *Dykes v. Sukup Mfg. Co.*, 781 N.W.2d 578, 582 (Minn. 2010). “A contract is ambiguous if, based upon its language alone, it is reasonably susceptible of more than one interpretation.” *Denelsbeck v. Wells Fargo & Co.*, 666 N.W.2d 339, 346 (Minn. 2003) (quotation omitted).

Here, the Assignment of Redemption Rights provides that KMLE “does hereby sell, transfer and convey to Francis J. Schumacher, the redemption right to real property in Nicollet County Minnesota.” The district court determined that this language is unambiguous and, therefore, extrinsic evidence of the parties’ conditional oral agreement is barred by the parol evidence rule. We agree. The plain language of the agreement is not susceptible to more than one interpretation, nor does it contain any reference to a conditional agreement. And as the district court noted, the agreement “clearly assigned KMLE’s assignment rights” in the property to Schumacher, and can be interpreted based solely on the “four corners” of the document. Minnesota law recognizes that “[e]xtrinsic evidence beyond the four corners of a contract is inadmissible to explain the meaning of a contract that is unambiguous.” *Trebelhorn v. Agrawal*, 905 N.W.2d 237, 243 (Minn. App. 2017). Further, where the language of a real estate instrument is unambiguous, a district court “err[s] as a matter of law by admitting and considering evidence to determine the meaning of the [instrument].” *Danielson v. Danielson*, 721 N.W.2d 335, 339 (Minn. App. 2006) (stating that “when parties reduce their agreement to writing, parol evidence is ordinarily inadmissible to vary, contradict, or alter the written agreement.”) Because there is an unambiguous, integrated written contract between the parties governing the assignment of rights, the district court did not err by barring appellants’ conditional-delivery evidence under the parol evidence rule.

c. Statute of Frauds

Appellants argue that the Assignment of Redemption Rights is unenforceable because it does not satisfy the statute of frauds. The determination of whether the statute

of frauds has been satisfied is generally a question of law subject to de novo review on appeal. *Simplex Supplies, Inc. v. Abhe & Svoboda, Inc.*, 586 N.W.2d 797, 800 (Minn. App. 1998).

Minnesota law provides that:

No estate or interest in lands, other than leases for a term not exceeding one year, nor any trust or power over or concerning lands, or in any manner relating thereto, shall hereafter be created, granted, assigned, surrendered, or declared, unless by act or operation of law, or by deed or conveyance in writing, subscribed by the parties creating, granting, assigning, surrendering, or declaring the same, or by their lawful agent thereunto authorized by writing.

Minn. Stat. § 513.04 (2018).

The statutory reference to interests in land “is broad enough to include any right, title, or estate in, or lien upon, real estate.” *Franklin Auto Body Co. v. Wicker*, 414 N.W.2d 509, 512 (Minn. App. 1987) (quotation omitted). It is undisputed that the Assignment of Redemption Rights involves an interest in land and the statute of frauds requires a writing. The assignment agreement here satisfies the statutory requirements because it describes the property and is signed by the assignor.

For these reasons, we determine that the district court did not err by granting summary judgment in Schumacher’s favor on his action to determine adverse claims.²

² Schumacher asserted six other causes of action in addition to his action to determine adverse claims. Schumacher later voluntarily withdrew two of these claims, and the district court dismissed the remaining claims. In his cross-appeal, Schumacher argued that if this court reverses the district court’s judgment on his action to determine adverse claims, then we should reinstate Schumacher’s alternative claims. Schumacher stated in his appellate brief that if this court affirms the district court’s judgment, then we “may dismiss [Schumacher’s] cross appeal.” Because we affirm the district court’s judgment on

III. The District Court Did Not Err by Dismissing Appellants' Counterclaims.

Appellants argue that the district court erred by granting summary judgment in Schumacher's favor on appellants' counterclaims. We address each argument in turn.

a. Breach of Contract

Appellants asserted a breach-of-contract counterclaim against Schumacher. Specifically, appellants alleged that Schumacher advanced payment of \$162,430.70 to appellants, in exchange for which Machau agreed to work off the debt by providing labor and services on the farm. Appellants bear the burden of proving the essential elements of a breach-of-contract claim "by a fair preponderance of the evidence." *Carpenter v. Nelson*, 101 N.W.2d 918, 921 (Minn. 1960); *see also Park Nicollet Clinic v. Hamann*, 808 N.W.2d 828, 833 (Minn. 2011) (articulating breach-of-contract factors).

If the arrangement between the parties was intended as a loan, as appellants contend, then it was a credit agreement within the meaning of Minn. Stat. § 513.33 (2018) and required a written instrument to be effective. A "credit agreement" is "an agreement to lend or forbear repayment of money, goods, or things in action, to otherwise extend credit, or to make any other financial accommodation." *Id.*, subd. 1(1). A "creditor" is "a person who extends credit under a credit agreement with a debtor," and a "debtor" is "a person who obtains credit or seeks a credit agreement with a creditor or who owes money to a creditor." *Id.*, subds. 1(2), (3). "A debtor may not maintain an action on a credit agreement

Schumacher's action to determine adverse claims, we need not reach the issues raised in the cross-appeal.

unless the agreement is in writing, expresses consideration, sets forth the relevant terms and conditions, and is signed by the creditor and the debtor.” *Id.*, subd. 2.

Here, appellants have not presented any written documentation supporting the existence of a “loan” between the parties, expressing consideration, setting forth the relevant terms and conditions, or bearing the parties’ signatures, as required by section 513.33, subdivision 2. As such, appellants’ breach-of-contract counterclaim fails as a matter of law and the district court did not err by granting summary judgment to Schumacher.

b. Fraudulent Misrepresentation

Appellants asserted a counterclaim for fraudulent misrepresentation, claiming that Schumacher agreed to provide a loan to appellants and then falsely claimed ownership of the property. Appellants have not produced any evidence supporting the elements of the claim. *See Hoyt Props., Inc. v. Prod. Res. Grp., L.L.C.*, 736 N.W.2d 313, 318 (Minn. 2007) (setting forth elements for fraudulent misrepresentation). Moreover, appellants’ fraudulent misrepresentation claim fails for lack of evidence required under Minn. Stat. § 513.33, subd. 2, for the same reasons discussed above. If the parties intended Schumacher’s payment to the bank to be a loan, it required a validly-executed written document between Schumacher and appellants. The evidentiary record does not contain any evidence of such an agreement. Therefore, appellants’ counterclaim for fraudulent misrepresentation is not supported by the evidence necessary to withstand a motion for summary judgment, and the district court did not err by dismissing it. *See Figgins v. Wilcox*, 879 N.W.2d 653, 658

(Minn. 2016) (affirming district court’s determination that section 513.33, subdivision 2, barred claimant’s fraudulent misrepresentation claim).

c. Promissory Estoppel

Appellants asserted a promissory estoppel counterclaim alleging that Schumacher promised to loan money to KMLE, that appellants relied on that promise, and that Schumacher received the benefits of Machau’s labor but failed to provide an accounting for his work. Appellants’ promissory estoppel claim fails as a matter of law because it is barred by Minn. Stat. § 513.33. In *Figgins*, the Minnesota Supreme Court recognized that section 513.33 requires certain credit agreements to be in writing and that the “statute’s plain language speaks in absolute terms and states that a debtor may not maintain an action on a credit agreement.” 879 N.W.2d at 659 (quotation omitted). And “[t]here is simply no textual basis for creating an exception to section 513.33 for promissory estoppel claims.” *Id.* at 659. The district court did not err by granting summary judgment on appellants’ promissory estoppel counterclaim.

d. Equitable Estoppel

Appellants asserted a counterclaim for equitable estoppel, claiming that Schumacher made representations to Machau, that Machau relied on those representations, and that it would be inequitable for Schumacher to receive the benefits of Machau’s labor and expertise without compensation. As with appellants’ promissory estoppel claim, appellants’ equitable estoppel claim fails as a matter of law because it is barred by section 513.33. Equitable estoppel claims are not exempt from operation of Minn. Stat. § 513.33. *See id.* at 659 (reiterating that “no action on a credit agreement may be

maintained unless the writing requirement is satisfied”). The district court did not err by granting summary judgment on appellants’ equitable estoppel counterclaim.

e. Quiet Title

Appellants asserted a counterclaim seeking to quiet title to the property in KMLE. The district court dismissed this counterclaim in light of its order granting summary judgment in Schumacher’s favor on his action to determine adverse claims. Because we affirm the district court’s decision to determine adverse claims, we likewise affirm dismissal of appellants’ quiet-title counterclaim.

Affirmed.