STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1413

Andrea Tallman,
Appellant,

vs.

Albert Brandmire,
Respondent.

Filed March 23, 2020
Affirmed
Bjorkman, Judge

Anoka County District Court
File No. 02-CV-18-2222

Matthew L. Fling, St. Louis Park, Minnesota (for appellant)

Daniel M. Gallatin, Gallatin Law, PLLC, Hugo, Minnesota (for respondent)

Considered and decided by Bjorkman, Presiding Judge; Johnson, Judge; and Slieter, Judge.

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

BJORKMAN, Judge

Appellant challenges the dismissal of her breach-of-contract claim following a court trial, arguing that the district court erred in concluding that (1) the claim is time-barred, (2) there was not an enforceable contract, and (3) she lacks standing. Because appellant's claim is time-barred, we affirm.

FACTS

In 2000, appellant Andrea Tallman agreed to purchase a duplex with her mother, Ursula Brandmire, and her step-father, respondent Albert Brandmire (Brandmire). They applied for a mortgage through a private lender. Brandmire was unhappy with the offered mortgage rate and believed he could obtain a better rate through the U.S. Department of Veterans Affairs (VA). Tallman was not eligible for a VA loan and could not hold title to a property secured by the VA program because she was neither a veteran nor a spouse of a veteran. But the Brandmires decided to obtain financing through the VA and purchased the property on their own.

On September 18, Tallman's maternal grandparents gave the Brandmires nearly $27,000 toward the purchase. They memorialized the gift in a document titled "Gift Letter." The one-page document does not reference Tallman.

The Brandmires completed the purchase on September 29, and Tallman attended the closing. That same day, Tallman and the Brandmires signed an agreement described as an "attachment" to the closing documents. The agreement identifies the parties by their first names, and provides:

> Al, Ursula, and Andrea all agree that the above mentioned property will be owned 50% (fifty percent) by Al and Ursula together and 50% (fifty percent) by Andrea. They will take title as tenants in common. Should any party expire before the other(s), their Last Will and Testaments shall be enforced.
>
> Upon the signing of the closing documents, dated this September 29, 2000, Andrea Tallman will be quit claimed into title and will therefore share in full ownership of the above mentioned property.

> In regards to the mortgage payments on the above mentioned property, it is hereby agreed by all parties that the gift funds received, in the amount of $25,000.00 shall be credited to Andrea and her portion of the monthly mortgage payment. At the purchase price of $200,000.00, Al and Ursula will have a princip[al] and interest payment of $725.07/mo. Andrea will have a princip[al] and interest payment of $543.81/mo. It is further agreed that the responsibility of the property taxes and homeowners insurance will be 50% (fifty percent) Al and Ursula and 50% (fifty percent) Andrea.
>
> Upon the sale of the above property, the balance of monies left over after the mortgage, closing costs and standard seller paid fees are deducted from the selling price, Andrea shall receive the first $25,000.00. Any monies remaining will be split equally to have Al and Ursula receiving 50% (fifty percent) and Andrea receiving 50% (fifty percent).

Contrary to the agreement, the Brandmires did not deed any portion of the property to Tallman on September 29, 2000, or any time thereafter.

Tallman and the Brandmires moved into the property and lived there, Tallman on one side and the Brandmires on the other, for 18 years. Each month, Tallman paid a portion of the mortgage, insurance, and taxes by writing a check to the mortgage company, which she delivered to Brandmire for him to include with his payment.

In December 2009, the Brandmires filed for bankruptcy. They claimed an exemption in the property, indicating that it was not subject to any unexpired leases or executory contracts and stating there were no co-debtors. When Tallman filed for bankruptcy the following month, she denied having any interest in real property or executory contracts.

After Ursula Brandmire died in April 2018, Brandmire (through his daughter as power of attorney) placed the property for sale. In response, Tallman commenced this

action, alleging that Brandmire breached the contract by failing to transfer a half interest in the property to her. After a bench trial, the district court found in Brandmire's favor, reasoning that Tallman's claim is time-barred, the parties did not have an enforceable contract, and Tallman lacks standing to bring any claim because any interest she may have had in the property passed to her bankruptcy estate.[1] Tallman appeals.

D E C I S I O N

The construction and application of a statute of limitations are questions of law, which we review de novo. *Park Nicollet Clinic v. Hamann*, 808 N.W.2d 828, 831 (Minn. 2011). A contract claim is subject to a six-year statute of limitations. Minn. Stat. § 541.05, subd. 1(1) (2018). The limitations period begins to run when a cause of action accrues. *Hamann*, 808 N.W.2d at 832. An action accrues when "a plaintiff can allege sufficient facts to survive a motion to dismiss for failure to state a claim on which relief can be granted." *Frederick v. Wallerich*, 907 N.W.2d 167, 173 (Minn. 2018).

Tallman's complaint alleges that Brandmire breached the agreement by "failing to convey a 50% interest in the Property to [her]." To determine when Tallman could allege sufficient facts to support this claim, we consider when the agreement required Brandmire to make the transfer.

We review contract interpretation de novo. *Travertine Corp. v. Lexington-Silverwood*, 683 N.W.2d 267, 271 (Minn. 2004). Our goal is to effectuate the parties' intent. *Id.* To discern that intent, we look to the language of the contract as a whole,

[1] Tallman also sought equitable relief, which the district court denied under the doctrine of unclean hands. Tallman does not challenge that aspect of the court's decision on appeal.

harmonizing all of its clauses. *Trebelhorn v. Agrawal*, 905 N.W.2d 237, 242 (Minn. App. 2017). If that language is unambiguous, we apply its plain and ordinary meaning without considering extrinsic evidence. *Id.* Tallman does not argue that resolution of when her contract claim accrued turns on parol evidence. Accordingly, we look solely to the four corners of the agreement. *Id.*

The agreement unambiguously defines the timing of Brandmire's transfer obligation. It states: "Upon the signing of the closing documents, dated this September 29, 2000, Andrea Tallman will be quit claimed into title and will therefore share in full ownership of the above mentioned property." The term "upon" indicates a particular occasion that triggers the obligation. *See The American Heritage Dictionary of the English Language* 1230 (defining "on" as "indicat[ing] occurrence at a given time" or "indicat[ing] the particular occasion or circumstance"), 1903 (defining "upon" as "on") (5th ed. 2011). That occasion is plainly the "signing of the closing documents," which occurred on September 29, 2000. When the Brandmires signed the closing documents on that date, they immediately assumed the obligation to transfer half of the property to Tallman. Indeed, Tallman acknowledges that, because the obligation accrued on that date, she could have pursued her breach-of-contract claim by late 2000.

Tallman contends the agreement created a separate obligation for Brandmire to pay her $25,000 and half of the remaining proceeds upon the property's sale, and that his failure to remit payment is an independent breach that is not barred by the statute of limitations. That argument is unavailing for two reasons. First, Tallman does not allege any such breach. Her complaint alleges a single breach of contract—that Brandmire failed to

transfer half ownership of the property to her. Even after the 2018 sale of the property, Tallman did not amend her complaint to allege that Brandmire breached an obligation to pay half of the sale proceeds. Second, Tallman's right to share in the sale proceeds is plainly tied to her half ownership of the property, as are other portions of the agreement. The parties' mutual obligations under the agreement—including their shared obligation to pay mortgage principal and interest, taxes, and homeowner's insurance, and entitlement to equal shares of the proceeds from the property's sale—all flow from the Brandmires' obligation to transfer half ownership of the property to Tallman. The Brandmires' failure to do so "upon the [September 29, 2000] signing of the closing documents" implicated all of the other expressed rights and obligations.

In sum, the agreement required the Brandmires to transfer half interest in the property to Tallman as soon as they signed the closing documents. When they failed to do so, Tallman had a breach-of-contract claim that would have survived a motion to dismiss by late 2000. The limitations period for that claim expired in late 2006, nearly 12 years before Tallman commenced this action. Accordingly, the district court did not err by dismissing Tallman's claim as time-barred.[2]

Affirmed.

[2] Because we affirm the district court's decision based on the statute of limitations, we decline to address Tallman's challenges to the alternative bases for the court's decision.