STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1533

North Loop Downtown, LLC,
Appellant,

vs.

Benjamin Liao, et al.,
Respondents.

Filed August 16, 2021
Affirmed
Slieter, Judge

Hennepin County District Court
File No. 27-CV-19-20732

Brian N. Niemczyk, Katherine A. Herman, Hellmuth & Johnson, Edina, Minnesota (for appellant)

Christopher M. Daniels, Gregory N. Arenson, Parker Daniels Kibort LLC, Minneapolis, Minnesota (for respondents)

Considered and decided by Slieter, Presiding Judge; Ross, Judge; and Bryan, Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

Appellant challenges the district court's grant of summary judgment of its breach-of-contract claim against respondents, arguing that the district court erred by determining that there were no genuine issues of material fact. Because the respondents' liability based upon a promissory note had been released and there exist no genuine issues of material fact to indicate another basis for their liability, we affirm.

FACTS

This dispute comes before us from a grant of summary judgment. We therefore view "the evidence in the light most favorable to the nonmoving party and resolve all doubts and factual inferences against the moving part[y]." *Maethner v. Someplace Safe, Inc.*, 929 N.W.2d 868, 874 (Minn. 2019) (quotation omitted). With this in mind, we accept the following facts as true for purposes of our review.

On or about January 30 or 31, 2013, Samrina Sabri and respondents Benjamin and Margaret Liao (the Liaos) executed a commercial property note (the 2013 note) in favor of Morris Law Group (MLG).[1] The Liaos and Samrina Sabri agreed to pay $233,000, plus interest to MLG, for the purchase of certain business property.

On July 31, 2015, attorney Richard Morris executed a release of commercial promissory note (the release) on behalf of MLG, releasing the Liaos and Samrina Sabri from liability pursuant to the 2013 note. Morris stated in a sworn declaration that this transaction "was for a complete release of the Liaos and [Samrina] Sabri." On the same date, Urban Developers–controlled by Samrina Sabri's father, Mohammad Sabri— agreed to pay $200,000 to MLG and executed the 2015 note. The Liaos were not a party to the 2015 note.

Several days later, MLG executed an assignment of the 2013 note (the assignment), assigning its rights to appellant North Loop Downtown LLC. At Mohammad Sabri's request, the assignment listed its effective date as July 31, 2015. However, Morris

[1] Although Samrina Sabri signed the 2013 note, she was not named in the complaint and is not a party to this appeal.

acknowledged in his declaration filed in the district court that "[t]he [a]ssignment was not drafted or signed on July 31, 2015, nor was it discussed or contemplated that day. The assignment was not a part of the July 31, 2015 transaction." Morris stated that "[t]here was no talk on July 31, 2015, of an assignment of the [2013 note], only of a release of the Liaos and Samrina Sabri . . . and a new Commercial Promissory Note with a different payor." Morris stated that Mohammad Sabri asked him to "make the 'effective date' of the assignment July 31, 2015." Morris agreed to backdate the assignment to July 31, 2015. North Loop agreed that "[t]he Assignment was created and signed several days after July 31, 2015," and that "Morris created and backdated the Assignment." The assignment was between MLG and North Loop, and the Liaos were not a party to this agreement.

In December 2019, North Loop asserted a breach-of-contract claim against the Liaos and sought to recover $233,000 under the terms of the 2013 note. The Liaos moved for summary judgment on the ground that they had been released from all liability by operation of the release. The district court granted the Liao's motion and dismissed North Loop's complaint. North Loop now appeals.

DECISION

Summary judgment is proper if "there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law." Minn. R. Civ. P. 56.01. "A genuine issue of material fact exists if a rational trier of fact, considering the record as a whole, could find for the nonmoving party." *Leeco, Inc. v. Cornerstone Bank*, 898 N.W.2d 653, 657 (Minn. App. 2017), *review denied* (Minn. Sept. 27, 2017). To survive summary judgment, the opposing party must "extract specific, admissible facts from the record that

demonstrate that a genuine issue of material fact exists." *Beecroft v. Deutsche Bank Nat'l Tr. Co.*, 798 N.W.2d 78, 82 (Minn. App. 2011) (quotation omitted), *review denied* (Minn. July 19, 2011).

I. The Liaos were released from liability pursuant to the clear and unambiguous language of the release.

North Loop argues that the district court erred by granting summary judgment on its breach-of-contract claim. A court interprets a release in the same manner it interprets a contract. *See Karnes v. Quality Pork Processors*, 532 N.W.2d 560, 562 (Minn. 1995). "The elements of a breach of contract claim are (1) formation of a contract, (2) performance by plaintiff of any conditions precedent to his right to demand performance by the defendant, and (3) breach of the contract by defendant." *Id.* (quotation omitted). "A breach of contract is a failure, without legal excuse, to perform any promise that forms the whole or part of the contract." *Lyon Fin. Servs., Inc. v. Ill. Paper & Copier Co.*, 848 N.W.2d 539, 543 (Minn. 2014).

"The primary goal of contract interpretation is to ascertain and enforce the intent of the parties." *Valspar Refinish, Inc. v. Gaylord's, Inc.*, 764 N.W.2d 359, 364 (Minn. 2009). A court "deduce[s] the parties' intent from the language used." *Metro. Sports Facilities Comm'n v. General Mills, Inc.*, 470 N.W.2d 118, 123 (Minn. 1991). "The plain and ordinary meaning of the contract language controls, unless the language is ambiguous." *Bus. Bank v. Hanson*, 769 N.W.2d 285, 288 (Minn. 2009). "A contract's terms are not ambiguous simply because the parties' interpretations differ." *Staffing Specifix, Inc. v. TempWorks Mgmt. Servs., Inc.*, 913 N.W.2d 687, 692 (Minn. 2018). However, "[a]

contract is ambiguous if, based upon its language alone, it is reasonably susceptible of more than one interpretation." *Art Goebel, Inc. v. N. Suburban Agencies, Inc.*, 567 N.W.2d 511, 515 (Minn. 1997). "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).

Morris executed the release of the 2013 note on behalf of MLG on July 31, 2015. The release stated:

> THE UNDERSIGNED [Richard Morris], the holder of that certain Commercial Promissory Note dated January 31, 2013, given by Ben Liao, Margaret Liao, and Samrina Sabri, in favor of the undersigned in the original principal amount of $233,000, hereby acknowledges that the Note has been satisfied.
>
> Ben Liao, Margaret Liao, and Samrina Sabri are released from any liability under said Commercial Promissory Note.

The district court determined that the release was clear and unambiguous. We agree.

The Liaos were released from liability pursuant to the 2013 note. Caselaw instructs us that "parties to a release agreement intend what is expressed in a signed writing." *Sorensen v. Coast-to-Coast Stores Inc.*, 353 N.W.2d 666, 670 (Minn. App. 1984), *review denied* (Minn. Nov. 7, 1984). Thus, if a party agrees to release another party from "any liability," then there is no basis for a reviewing court to conclude that the release was only limited to certain claims. *See, e.g.*, *Goldberger v. Kaplan, Strangis & Kaplan, P.A.*, 534 N.W.2d 734, 738 (Minn. App. 1995) (holding that release "from all claims" barred *all* of plaintiff's claims), *review denied* (Minn. Sept. 28, 1995). Applying the principle

articulated in *Sorensen*, we agree with the district court that "[b]y its terms, the [r]elease identifies the 2013 Note, acknowledges that the 2013 Note has been satisfied, and releases the Liao Defendants and [Samrina] Sabri from '*any liability* under' the 2013 Note."

The language of the release is clear and unambiguous. And "a court gives effect to the parties' intentions as expressed in the four corners of the instrument, and clear, plain, and unambiguous terms are conclusive of that intent." *Knudsen v. Transp. Leasing/Contract, Inc.*, 672 N.W.2d 221, 223 (Minn. App. 2003), *review denied* (Minn. Feb. 25, 2004). "When the language is clear and unambiguous, [appellate courts] enforce the agreement of the parties as expressed in the language of the contract." *Dykes v. Sukup Mfg. Co.*, 781 N.W.2d 578, 582 (Minn. 2010).

The release plainly states that the Liaos "are released from any liability under [the] Commercial Promissory Note." There is no reason to go outside the four corners of the release to interpret this document. *See Minn. Teamsters Pub. & Law Enf't Emps. Union, Local 320 v. Cnty. of St. Louis*, 726 N.W.2d 843, 847-48 (Minn. App. 2007) (noting that a party may not rely on extrinsic evidence to create ambiguity in a contract if ambiguity does not otherwise exist), *review denied* (Minn. Apr. 25, 2007). Thus, the district court did not err by giving effect to the plain language expressed in the release.

II. North Loop failed to raise genuine issues of material fact.

For the reasons discussed above, we determine that the Liaos were released from liability under the plain terms of the release. Even if we were to consider extrinsic evidence of the parties' intention related to the release as North Loop argues, North Loop failed to identify genuine issues of material fact to avoid summary judgment.

North Loop does not argue that the release is unclear or ambiguous, or that the phrase "any liability" is susceptible to more than one interpretation. North Loop also concedes that the release preceded the assignment. The undisputed evidence shows that the release was executed first, on July 31, 2015, and the assignment was drafted and executed on approximately August 5, 2015. Morris stated in his sworn declaration that:

> The Release and the Commercial Promissory Note were indeed drafted and signed on July 31, 2015, and the release was notarized at that time. The Assignment was not drafted or signed on July 31, 2015, nor was it discussed or contemplated that day.
>
> . . . .
>
> Days after the July 31, 2015 transaction was completed, and days after the Liaos and [Samrina] Sabri were released from any and all obligations under the 2013 Commercial Promissory Note, [Mohammad] Sabri asked me if I would prepare an assignment of the 2013 Commercial Promissory Note to a company called North Loop Downtown, LLC, and make the 'effective date' of the assignment July 31, 2015.
>
> . . . .
>
> On or about August 5, 2015, I drafted the Assignment . . . and gave it to [Mohammad] Sabri.

MLG's records custodian also provided evidence that the assignment was not created by MLG until August 5, 2015.

North Loop does not challenge this evidence. North Loop argues, instead, that the "exact order of signing is irrelevant" because a fact question remains whether the parties intended for the release and the assignment to be treated as part of a single transaction. North Loop argues that a jury should be permitted to determine why Morris drafted the

documents several days apart and backdated one of the documents. This argument rests entirely on Morris's deposition testimony in an earlier lawsuit between Urban Developers, MLG, and Morris. The Liaos were not part of that lawsuit. In the earlier lawsuit, Morris agreed that MLG assigned the $233,000 note to North Loop "as part of that transaction." Counsel failed to elicit any testimony regarding the phrase, "that transaction." According to North Loop, the court in *this* case should interpret "that transaction" to refer to both the release and the assignment. There is no support in the record for us to do so, and North Loop cannot rely on "mere speculation" about the meaning of a phrase in a different lawsuit to avoid summary judgment in this one. *See Osborne v. Twin Town Bowl, Inc.*, 749 N.W.2d 367, 371 (Minn. 2008) (cautioning courts against relying on "mere speculation" in summary-judgment context).

The district court rejected North Loop's arguments, reasoning that Morris's contradictory testimony, the backdated document, and other evidence relating to the parties' underlying intent was insufficient to create a factual issue for trial in light of the clear, unambiguous, and uncontested language of the release. The district court stated that, "All evidence indicates the [r]elease was executed first, and the Assignment was drafted and signed several days later." On this record, we agree that there are no genuine issues of material fact which might tie together the release and the assignment into a single transaction. Instead, the undisputed facts show that the 2015 note and the assignment are different documents, executed on separate days, and involving different parties.

We recognize that summary judgment is a "blunt instrument" and "is inappropriate when reasonable persons might draw different conclusions from the evidence presented."

Id. at 371 (citation omitted). But, "mere speculation, without some concrete evidence, is not enough to avoid summary judgment." *Osborne*, 749 N.W.2d at 371. The Liaos were released from "any liability" under the plain language of the release, and North Loop did not point to concrete evidence showing otherwise. Even viewing the evidence in the light most favorable to North Loop, there are no genuine issues of material fact precluding summary judgment. Accordingly, we hold that the district court did not err by granting summary judgment in the Liaos's favor and dismissing the complaint.

Affirmed.