STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1269

Wells Fargo Bank, N.A.,
Respondent,

vs.

Viroment USA, LLC, et al.,
Appellants.

Filed May 2, 2022
Affirmed
Reilly, Judge

Washington County District Court
File No. 82-CV-20-955

Jeffrey D. Smith, Nauni J. Manty, Mary Sieling, Manty & Associates, P.A., Minneapolis, Minnesota (for respondent)

Steven V. Rose, Peter L. Crema Jr., Nathan W. Nelson, Virtus Law, PLLC, Brooklyn Park, Minnesota (for appellants)

Considered and decided by Connolly, Presiding Judge; Reilly, Judge; and Smith, Tracy M., Judge.

NONPRECEDENTIAL OPINION

REILLY, Judge

Appellants challenge the district court's grant of summary judgment to respondent on respondent's breach-of-contract claim and on appellants' counterclaims. Because there are no genuine issues of material fact precluding summary judgment in respondent's favor, we affirm.

FACTS

Appellant Viroment USA, LLC is a limited liability company in the water-treatment business. Appellant Paul Koenig is Viroment's CEO. In October 2016, Viroment USA, LLC and Koenig (appellants) applied for an express, secured loan (the express loan) from respondent Wells Fargo Bank, N.A. (the bank).[1] In July 2017, appellants executed a loan agreement in the amount of $50,000 for the express loan (the express loan agreement). Appellants used the proceeds from the express loan to purchase a trailer for use in their business.

The terms of the express loan are subject to the bank's equipment express customer agreement (the customer agreement). Under the customer agreement, appellants granted the bank a security interest in the equipment financed by the loan, including "each item of Equipment, together with all accessories and components appertaining or attached thereto, whether now owned by Borrower or hereafter acquired," and "all . . . income, profits and proceeds of the foregoing." The customer agreement also authorized the bank to file or record a security interest in the trailer, items related to the trailer, and proceeds and profits derived from the trailer. In August 2017, the bank recorded a financing statement under the Uniform Commercial Code (the UCC) with the Minnesota Secretary of State.

Appellants defaulted on the express loan, and the bank demanded payment in full. When appellants failed to pay the outstanding loan balance, the bank filed a breach-of-contract complaint in February 2020. Appellants filed an answer and asserted

[1] Appellants also executed a line-of-credit loan and received a Visa business credit card. These loans are not at issue on appeal.

counterclaims for breach of contract, violations of the UCC, and promissory estoppel. The bank moved for summary judgment on its breach-of-contract claim and on appellants' counterclaims. The district court granted the motion, entered judgment in the bank's favor, and dismissed appellants' counterclaims with prejudice. This appeal follows.

DECISION

Summary judgment is appropriate 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), *rev. denied* (Minn. Sept. 27, 2017). A material fact is one that affects the outcome or result of a case. *O'Malley v. Ulland Bros*., 549 N.W.2d 889, 892 (Minn. 1996). We review a grant of summary judgment de novo, viewing "the evidence in the light most favorable to the nonmoving party and resolv[ing] 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).

I. The loan documents authorized the bank to file a security interest in the trailer, items related to the trailer, and proceeds and profits.

Appellants challenge the district court's grant of summary judgment in the bank's favor on its breach-of-contract claim. "[T]he primary goal of contract interpretation is to determine and enforce the intent of the parties." *Motorsports Racing Plus, Inc. v. Arctic Cat Sales, Inc.*, 666 N.W.2d 320, 323 (Minn. 2003). If "a contract is unambiguous, 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), *rev. denied* (Minn. Feb. 25, 2004). "Generally, construction of a written contract is a question of law for the district court and therefore summary judgment is particularly appropriate." *Id.* However, "summary judgment is not appropriate where the terms of a contract are at issue and any of its provisions are ambiguous or unclear." *Donnay v. Boulware*, 144 N.W.2d 711, 716 (Minn. 1966). "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).

It is uncontested that appellants defaulted on the terms of the express loan. And appellants concede that the bank had a right to take a security interest in the trailer itself. But appellants argue the bank was not permitted to take a security interest in the proceeds and profits of the trailer. The district court rejected appellants' argument and determined that the loan documents—encompassing the express loan agreement and the customer agreement—"[gave] the Bank the authority to take a security interest in [appellants'] equipment, which includes the Trailer" and any accessories, proceeds, and profits. The district court relied on the language from the customer agreement, which stated that the express loan was secured by "each item of Equipment [and] . . . all rents . . . and proceeds." The district court noted that "[t]his document clearly states that the Bank has a security interest in Equipment and proceeds."

We agree. Appellants executed the express loan agreement, in which they agreed that the express loan was "subject to the terms of the Customer Agreement and other documents that will be provided . . . if this application is approved." By signing the express loan agreement, appellants also agreed "to be bound by the terms of the Customer Agreement or other written documentation that will be sent [to them]." Section 1 of the customer agreement, addressing loan proceeds and collateral, states:

> As security for Borrower's obligations to Wells Fargo under the Agreement, Borrower hereby grants to Wells Fargo a security interest (i) in each item of Equipment, together with all accessories and components appertaining or attaching thereto, whether now owned by Borrower or hereafter acquired . . . (iv) in all rents, issues, income, profits and proceeds of the foregoing, and (v) . . . . All of the foregoing shall collectively be referred to hereinafter as the "Collateral."

The plain language of the loan documents, including the express loan agreement and the customer agreement, grant the bank a security interest in "all accessories and components" of the trailer and "in all rents, issues, income, profits[,] and proceeds" related to these items. Given the plain language of these documents, the district court did not err by determining that the bank could claim a security interest in the trailer, its accessories, and its proceeds and profits.

Appellants argue they are not bound under the customer agreement because they did not sign the customer agreement itself, separately from the express loan agreement. Under the composite document rule, Minnesota courts will construe several instruments as one contract when they are made part of the same transaction. *See Marso v. Mankato Clinic, Ltd.*, 153 N.W.2d 281, 289 (Minn. 1967) ("Where several instruments are made part of one

transaction, they will be read together and each will be construed with reference to the others . . . ."); *see also Am. Nat'l Bank of Minn. v. Hous. & Redevelopment Auth. for Brainerd*, 773 N.W.2d 333, 337 (Minn. App. 2009) ("A contract and several writings relating to the same transaction must be construed with reference to each other."); *Allete, Inc. v. GEC Eng'g, Inc.*, 726 N.W.2d 520, 523-24 (Minn. App. 2007) (adopting the composite document rule in Minnesota and recognizing "that courts have found that a financing statement, in conjunction with other writings, constitutes a security agreement creating a security interest in property").

Appellants do not dispute that they executed the express loan agreement. The parties incorporated the customer agreement by reference into the express loan agreement. Upon approval of the express loan, the bank sent a check for the loan proceeds to appellants for the purchase of the trailer. The confirmation letter accompanying the check explained that appellants' "endorsement of the enclosed check, will confirm that you have accepted the above terms as well as the terms and conditions set forth in the [customer agreement]." Koenig endorsed this check. These instruments were made as part of the same transaction. For these reasons, the district court correctly found there is a properly authenticated agreement, which, in turn, gave the bank the authority to file a UCC statement to perfect its interest in the trailer, its accessories, and its proceeds and profits.

We determine there are no genuine issues as to any material fact that appellants signed the express loan agreement, agreed to be bound by the customer agreement, and endorsed the check for the loan proceeds. The plain terms of the loan documents provide that the bank has a security interest in the trailer, its accessories, and any proceeds and

profits related to the trailer. Thus, the district court did not err by granting summary judgment for the bank on its breach-of-contract claim.

II. The financing statement fell within the loan documents.

Appellants also claim there is a genuine issue of material fact whether the bank's financing statement falls within the loan documents. Appellants claim the district court erred in its interpretation of the loan documents. When interpreting a contract, we "look to the language of the contract to determine the parties' intent." *Storms, Inc. v. Mathy Constr. Co.*, 883 N.W.2d 772, 776 (Minn. 2016). We construe a contract as a whole and seek to harmonize its clauses. *Chergosky v. Crosstown Bell, Inc.*, 463 N.W.2d 522, 525 (Minn. 1990). Whether the security agreement granted the bank a security interest in the trailer, its accessories, and its proceeds, is a question of law, which we review de novo. *First Minn. Bank v. Overby Dev., Inc.*, 783 N.W.2d 405, 413 (Minn. App. 2010).

The bank filed a financing statement claiming a security interest in:

> All goods, tools, machinery, furnishing, furniture and other equipment and fixtures of Debtor described below [including the trailer], wherever located, whether in the possession of Debtor or any other person, and all improvements, replacements accessions and additions thereto and embedded software included therein, and all such equipment and fixtures now or at any time hereafter installed on the land or in the improvements at the real property described below, and all proceeds of any of the foregoing, whether arising from the sale, lease, or other use or disposition thereof, including without limitation, all rights to payment with respect to any insurance, including returned premiums, or any claim or cause of action relating to any of the foregoing.

Appellants argue the bank had a right to file a UCC financing statement for the trailer, but not for the rents or proceeds from the use of the trailer. The district court

rejected this argument and found that "[t]he UCC Financing Statement clearly describes the collateral as the Trailer and items related to the trailer." The district court determined the financing statement "[did] not exceed the scope of the loan documents as [those documents are] specifically limited to the Trailer and items related to the Trailer, which was authorized by the terms and conditions of the loan documents."

The loan documents authorized the bank to file a financing statement. The customer agreement expressly granted the bank a security interest in the trailer and in related items bought with the loan proceeds. The bank did not seek an interest in anything beyond the trailer, items related to the trailer, or rents and profits from the trailer. Generally, "a description of personal or real property is sufficient, whether or not it is specific, if it reasonably identifies what is described." Minn. Stat. § 336.9-108(a) (2020). A description of collateral by category reasonably identifies the collateral. Minn. Stat. § 336.9-108(b)(2). Minnesota courts will "liberally construe descriptions in the security agreement and financing statement because their essential purpose is to provide notice, not to definitively describe each item of collateral." *Border State Bank of Greenbush v. Bagley Livestock Exch., Inc*., 690 N.W.2d 326, 331 (Minn. App. 2004), *rev. denied* (Minn. Feb. 23, 2005).

Here, the customer agreement describes the property as "each item of Equipment, together with all accessories and components appertaining or attached thereto, whether now owned by Borrower or hereafter acquired," and "all . . . income, profits and proceeds of the foregoing." The customer agreement reasonably identified the collateral. The financing statement was limited to the trailer, items related to the trailer, and profits and proceeds from the trailer, as described in the customer agreement. The financing statement

adequately placed other creditors on notice that the bank had a security interest in the items described. Thus, the district court did not err by determining that the bank was allowed to file a UCC statement for the trailer, its accessories, and its proceeds, and did not exceed the scope of the loan documents.[2]

In sum, we conclude that the loan documents reasonably identified the collateral and the bank's security interest in that collateral. The district court did not err by determining that there were no genuine issues of material fact in dispute and granting the bank's motion for summary judgment.[3]

III. Appellants are not entitled to relief on their counterclaims.

Appellants asserted counterclaims for breach of contract, violations of the UCC, and promissory estoppel. As discussed above, appellants are not entitled to relief on their breach-of-contract counterclaim because there are no genuine issues of material fact about the bank's rights under the loan documents to record a security interest in the trailer, its accessories, and its profits and proceeds. Appellants are also not entitled to relief on their claim that the bank violated the UCC. The district court correctly determined that the loan documents authorized the bank to file and record the UCC statement. Lastly, appellants may not recover on their promissory-estoppel claim. Promissory estoppel is an equitable

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[2] Appellants also claim they suffered damages because they could not locate alternative or additional sources of financing because of the financing statement. Based on our determination that the bank's financing statement was not faulty, we do not reach the issue of damages.

[3] Appellants also argue the bank did not have an authenticated record to authorize the filing because they did not sign the customer agreement. As discussed above, Minnesota law recognizes that several instruments made as part of a single transaction will be taken and construed together. *Allete, Inc.*, 726 N.W.2d at 523-24. We therefore reject this argument.

doctrine and "an express contract covering the same subject matter will preclude the application of promissory estoppel." *Greuling v. Wells Fargo Home Mortg., Inc*., 690 N.W.2d 757, 761 (Minn. App. 2005). Because a written contract governs the terms of the loan between the parties, appellants are not entitled to relief under promissory estoppel. For these reasons, the district court did not err by dismissing appellants' counterclaims.

Affirmed.