STATE OF MINNESOTA
IN COURT OF APPEALS
A23-0681

Jesus Cardenas,
Respondent,

vs.

Javier Cardenas, et al.,
Appellants.

Filed February 12, 2024
Affirmed
Bratvold, Judge

Nobles County District Court
File No. 53-CV-19-1202

Jeffrey L. Flynn, Flynn Law Firm, PLLC, Worthington, Minnesota (for respondent)

William J. Wetering, Hedeen, Hughes & Wetering, Worthington, Minnesota (for appellants)

Considered and decided by Bratvold, Presiding Judge; Ross, Judge; and Schmidt, Judge.

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

Two brothers entered into an oral partnership agreement to own, operate, and manage rental properties. After operating the partnership for almost twenty years, they wanted to dissolve the partnership and could not agree on how to do it. This appeal is taken from a judgment entered after a jury trial that determined by special verdict each partner's

ownership interest, whether the partnership owned six disputed properties, and whether the partners had improperly withheld or withdrawn funds from partnership accounts. After the jury trial, the district court divided the properties, dissolved the partnership, completed an accounting, and entered a money judgment. Appellants moved for a new trial, arguing that the jury's special-verdict answers are contrary to the evidence presented at trial. The district court denied the new-trial motion, the appellants' challenge to which is the sole issue on appeal. Because the record evidence supports the jury verdict, we affirm.

FACTS

The following summarizes the relevant procedural history and the evidence received during the jury trial when viewed in a light favorable to the jury's verdict.

In September 2019, respondent Jesus Cardenas sued his brother, appellant Javier Cardenas, and his brother's wife, appellant Irma Zamora (collectively, appellants).[1] The complaint alleged that respondent and appellants "engaged in a partnership enterprise of purchasing, repairing, upgrading, and then renting" houses. The complaint asked the district court first to determine which of 17 properties in Worthington belonged to the partnership, then to determine other issues by conducting an accounting of partnership accounts, dividing the partnership properties, and dissolving the partnership. Appellants answered the complaint, agreeing that the partnership owned 11 of the 17 properties in Worthington and agreeing that the district court should divide the properties, make an

[1] For clarity and ease of reference, this opinion will refer to the appellants by their first names when referencing them individually and as appellants collectively.

accounting, and dissolve the partnership. In short, while the partners agreed on some issues, they disputed whether the partnership owned six properties in Worthington.

The district court conducted a three-day jury trial in September 2022 to determine factual disputes before the district court resolved other issues. Respondent and appellants testified, as did two financial experts. The evidence showed that, when the partnership began in 2003, respondent and Javier purchased the first partnership property together and both contributed financially. They never put their agreement in writing. At some point, appellants made down payments on partnership properties using their own funds and held title to those properties in their own names.

Respondent, who lived in Hutchinson when the partnership began, maintained and managed all 17 properties, including the six disputed properties. Respondent later moved to Worthington and, along with his family, lived in a partnership property. Appellants lived in Seattle, Washington, and were in Minnesota infrequently. Much of the testimony and documentary evidence focused on the handling of two partnership accounts, one at a bank and one at a credit union.

After trial, the district court issued written findings of fact and an order for judgment, which it later amended. In its amended order, the district court described the parties' stipulations to facts and some issues, which narrowed the disputes for trial. The record does not include the stipulations in written form, nor are the stipulations in the transcript. The district court's order stated that the parties stipulated as follows:

- Appellants and respondent "entered into a partnership around 2003 with the purpose of purchasing, maintaining, and renting out various properties."

- The partnership owned 11 properties in Worthington.
- For the purposes of dissolution, the district court would determine the partnership's cash assets as of September 30, 2018.
- The value of any partnership real estate subject to division in the dissolution would be the 2018 county-tax-assessed value of the property.
- The district court would determine partnership earnings as of October 1, 2018, based on the parties' tax returns.
- Respondent collected profits from four properties as of October 1, 2018.
- Appellants collected profits from 13 properties as of October 1, 2018.
- Only appellants had access to the partnership bank account as of October 1, 2018.

The district court's order also adopted the jury's factual findings from the special-verdict form: (1) appellants and respondent, respectively, owned a 50% interest in the partnership; (2) the partnership owned all six disputed properties; (3) respondent did not "improperly" withhold or withdraw any funds from the partnership bank account; and (4) appellants "improperly" withdrew funds of $403,428.00 from the partnership bank account and $12,945.86 from the partnership credit-union account, and their daughter "improperly" withdrew $29,845.00 from the partnership bank account "for non-partnership purposes."

The district court's order also divided the partnership's 17 real properties between the parties, determined an equalizer for the real-property division, determined an equalizer for profits earned since October 1, 2018, found the partnership's total cash assets after

adjusting for amounts improperly withdrawn by appellants, and divided the cash assets between the parties. The district court directed entry of judgment for $249,924.55 in respondent's favor.

Appellants moved for a new trial, arguing that the "verdict and order are not justified by the evidence." After summarizing the record evidence, the district court denied the new-trial motion during the hearing. This appeal follows.

DECISION

Appellants argue that the district court abused its discretion when it denied their motion for a new trial, because the jury's verdict was contrary to the evidence. Respondent argues that, when the evidence is viewed favorably to the jury's special verdict, the evidence supports the findings of fact.

A district court may grant a motion for a new trial on any of seven grounds, one of which appellants raise: "The verdict, . . . is not justified by the evidence, or is contrary to law . . . ." Minn. R. Civ. P. 59.01(g). "We review a district court's decision to grant or deny a new trial for an abuse of discretion." *Christie v. Est. of Christie*, 911 N.W.2d 833, 838 (Minn. 2018). On appeal, a jury's decision "will stand unless manifestly and palpably contrary to the evidence viewed as a whole and in the light most favorable to the verdict." *Vanderweyst v. Langford*, 228 N.W.2d 271, 272 (Minn. 1975) (affirming the denial of a new-trial motion). "Unless we are able to determine that the evidence is practically conclusive against the verdict, or that reasonable minds could reach but one conclusion against the verdict," the jury's verdict should stand. *Seidl v. Trollhaugen*, *Inc.*, 232 N.W.2d 236, 239, 240-41 (Minn. 1975) (affirming the denial of motions for judgment

notwithstanding the verdict and for a new trial). The same standard applies to our review of a jury's answer to a special-verdict interrogatory. *Domtar Inc., v. Niagara Fire Ins. Co.*, 563 N.W.2d 724, 734, 741 (Minn. 1997) (stating that "[a] jury's answer to a special verdict form can be set aside only if no reasonable mind could find as did the jury" and affirming the denial of a new-trial motion).

Appellants challenge these four factual findings on the jury's special verdict as contrary to the evidence: (1) appellants and respondent, respectively, had a 50% ownership interest in the partnership; (2) the partnership owned the six disputed properties; (3) respondent did not improperly withhold partnership funds from the partnership bank account; and (4) appellants improperly withdrew $403,428.00 from the partnership bank account and $12,945.86 from the partnership credit-union account. We address each challenged finding in turn.

I. The record evidence supports the jury's finding that appellants and respondent, respectively, had a 50% ownership interest in the partnership.

Appellants seek a new trial because, they argue, the evidence did not support the jury's finding that respondent owned a 50% interest in the partnership. Appellants argue that they contributed more to the partnership financially because they provided the down payments for most of the partnership real properties. Respondent contends that he managed, repaired, and improved the properties using his own time and skills, as well as by hiring others.

In denying the motion for a new trial, the district court reasoned that "[t]he jury very well could have determined based on [the] testimony that there was sufficient evidence to

support their finding of 50/50 ownership," pointing out that the issue of ownership "did not rely purely on financial investment alone but also on the value of the work and service provided by [respondent] within the partnership."

A partner's contribution to partnership property or to the partnership "need not be equal or of the same nature." *Rehnberg v. Minn. Homes, Inc.*, 52 N.W.2d 454, 457 (Minn. 1952) (applying this principle to a joint venture). Partners may "combine[] their property, labor, and skill in an enterprise or business as co-owners for the purpose of joint profit." *Cyrus v. Cyrus*, 64 N.W.2d 538, 541 (Minn. 1954).

When viewed favorably to the jury's special-verdict finding, the record evidence shows that, initially, both respondent and Javier contributed funds to purchase real estate for the partnership and that, later, appellants made down payments on partnership properties and the partnership account repaid them. Respondent testified that, while he had other jobs initially, managing and maintaining the rental properties became his full-time job as he worked eight hours a day on the properties. Respondent gave his cell-phone number as the contact for potential tenants and for current tenants to request any property repairs. Although the titles for six properties listed only appellants' names on the deeds, respondent testified that he worked on, improved, and repaired each of those properties.

Accordingly, we agree with the district court that the record evidence supports the jury's finding that respondent had a 50% ownership interest in the partnership based on the partners' respective financial contributions and the labor and skill that respondent contributed to the partnership.

II. The record evidence supports the jury's finding that the partnership owned the six disputed properties.

Appellants argue that the record evidence contradicts the jury's finding that "all of the [six] properties in question were partnership assets." Appellants' brief to this court emphasizes that it was undisputed that respondent did not provide any "funds for the down payment on" the six disputed properties. They assert that appellants owned these properties separately because the down payments for these properties came from either appellants personally or their other business, Cardenas Yard Service. Respondent argues that the record evidence showed that the parties intended for all the properties to be owned and operated by the partnership, that respondent was "functionally illiterate" and "unaware" that appellants were taking title to the real estate in their own names, and that, when appellants purchased properties with funds from their personal or yard-service bank accounts, the partnership bank account repaid those amounts.

In denying the motion for a new trial, the district court reasoned that a rational juror could have determined that the partnership owned the disputed properties based on the evidence presented, stating that the source of funds to purchase the properties was not the only factor when determining whether a property was a partnership asset.

Minnesota law provides that "[p]roperty is presumed to be partnership property if purchased with partnership assets." Minn. Stat. § 323A.0204(c) (2022). Further, the district court instructed the jury, without objection by appellants, that partnership real estate need not be titled in the name of the partnership. *See Cyrus*, 64 N.W.2d at 543 ("The mere fact

that the title was taken in defendant's name does not prevent it from being partnership property.").

The record evidence, when viewed in a light favorable to the jury's special verdict, shows that appellants advanced down payments to purchase the six disputed properties and that the partnership account repaid appellants for the amounts advanced. The partnership accounts automatically paid mortgage payments for all rental properties, including the six disputed properties. Accordingly, we agree with the district court that the record evidence supports the jury's finding that the partnership owned the six disputed properties.

III. The record evidence supports the jury's finding that respondent did not improperly withhold or withdraw funds from partnership accounts.

Appellants argue that the evidence contradicted the jury's finding that respondent did not improperly withhold or withdraw funds from the partnership accounts. Appellants rely on Javier's testimony that he did not agree that respondent could retain rent money to pay "for his daily living." Respondent contends that he properly applied funds received for the partnership, either paying for partnership expenses, paying his own compensation as the property manager, or depositing the funds into a partnership account.

In denying the motion for a new trial, the district court determined that record evidence supported the jury's finding that respondent did not improperly withhold or withdraw any partnership funds. The district court pointed out that respondent "testified he did withhold a certain amount every month to assist in covering expenses [and] as basically a salary. And that on top of that he would withhold cash to pay for repairs, materials, and then turn over those [repair] receipts to his brother . . . ." The district court reasoned that

the jury reasonably could have found respondent's testimony credible and determined that respondent did not wrongfully withhold or withdraw any partnership funds.

Generally, partnership profits and expenses are to be shared evenly between partners. Minn. Stat. § 323A.0401(b) (2022). Partners also have "equal rights in the management and conduct of the partnership business." Minn. Stat. § 323A.0401(f) (2022). Each partner has authority "to dispose of the partnership funds" for "business transactions of the partnership itself; and any disposition of those funds by any partner beyond such purpose is an excess of his authority as partner." *N. Rogers & Sons v. Batchelor*, 37 U.S. 221, 222 (1838).

Here, the parties agreed that respondent collected rents from all the partnership properties and deposited rents received into the partnership bank account. The parties' testimony conflicted about whether respondent was permitted to use rents received to pay partnership expenses or as compensation for his property management. Javier testified that respondent stole money from the partnership and was not authorized to receive compensation. Respondent testified that he withheld $1,500 per month from rents received, which he used as compensation and for partnership expenses, such as maintenance, insurance, and property taxes. According to respondent, sometimes he withheld more if there were extra expenses for that month. Respondent also testified that he never stole from the partnership.

Because the testimony conflicted, we agree with the district court that this issue turned on witness credibility and defer to the jury's determination. Appellate courts defer to the fact-finder's credibility determinations. Minn. R. Civ. P. 52.01; *Rainforest Cafe, Inc.*

v. Wis. Inv. Bd., 677 N.W.2d 443, 450 (Minn. App. 2004). Respondent testified that he properly withheld rents received to pay partnership expenses, while Javier testified that respondent stole these funds. Accordingly, we agree with the district court that a reasonable juror could determine that respondent did not wrongfully withhold or withdraw funds from the partnership bank account.

IV. The record evidence supports the jury's finding that appellants improperly withdrew funds from partnership accounts.

Appellants dispute the jury's finding that they improperly withdrew $403,428.00 from the partnership bank account and $12,945.86 from the partnership credit-union account. Appellants contend that, to determine that they improperly withdrew $403,428.00, the "jury would have had to either been presented with the necessary calculation . . . which they were not, or spen[d] the time themselves to [calculate] the income necessary and the tax payable from the enterprise in order to reduce the principal." Respondent argues that the record evidence supports the jury's findings.

In denying the motion for a new trial, the district court concluded that the jury's findings about the amounts that appellants improperly withdrew from partnership accounts were based on "substantial testimony with references to specific portions of the exhibits presented [and] offered by the accountant" and that, in deliberation, the jury had sufficient time to check "the accountant's work to the degree they felt necessary to find his calculations to be credible."

The record evidence supports the jury's finding that appellants improperly withdrew funds from both accounts. First, we consider the partnership bank account. Appellants did

not dispute in their motion for a new trial and do not dispute on appeal the jury's finding that their daughter withdrew $29,845.00 from the partnership bank account "for non-partnership purposes." Also, during trial, respondent called a tax accountant who testified about his review of payments made from the partnership's bank account. The tax accountant testified that the partnership bank account made payments for appellants' benefit, such as to their account at Bank of America in Seattle totaling $122,732.87; to appellants' other business, Cardenas Yard Service, totaling $113,093.77; and to an attorney trust account totaling $50,462.10. He also testified that Javier wrote several checks from the partnership bank account to individuals, including himself and other relatives, totaling $16,180.00 and checks to Irma totaling $53,936.44.

In total, considering the payments listed here along with other payments from the partnership bank account to appellants, the tax accountant identified improper payments that totaled more than $403,428.00. Based on our review of the record evidence, we agree with appellants that it is unclear exactly which payments the jury found to be improper. But if we view the evidence in the light most favorable to the jury's special verdict, as we must, then we easily conclude that the jury's finding is within a reasonable range based on the evidence presented. Thus, a reasonable juror could have found that appellants wrongfully withdrew $403,428.00 from the partnership bank account.

Second, we consider the partnership credit-union account. Irma testified on cross-examination that she withdrew $12,945.86 from that account and then closed it. A reasonable juror could have found that Irma wrongfully withdrew those funds.

Therefore, after we consider all the evidence for the two partnership accounts in a light favorable to the jury's verdict, we agree with the district court that the evidence supports the jury's finding that appellants improperly withdrew funds from partnership bank and credit-union accounts.

In sum, based on the arguments raised in appellants' brief, the district court did not abuse its discretion when it denied appellants' motion for a new trial.

Affirmed.