

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0209**

James P Gerchy,
Respondent,

vs.

Autumn Antlers Trophy Whitetail Lodge, Inc., a Minnesota corporation, et al.,
Appellants.

**Filed January 13, 2025
Reversed and remanded
Ross, Judge**

Stearns County District Court
File No. 73-CV-21-3905

James C. Kovacs, Bassford Remele, P.A., Minneapolis, Minnesota (for respondent)

Thomas D. Jensen, Lind, Jensen, Sullivan & Peterson, P.A., Minneapolis, Minnesota (for
appellants)

Considered and decided by Ross, Presiding Judge; Cochran, Judge; and Jesson,
Judge.*

NONPRECEDENTIAL OPINION

ROSS, Judge

This case concerns a corporation's contractual obligation to provide a one-percent
equity share to its general manager each year the corporation was profitable under his

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

management. The district court conducted a bench trial on the general manager's breach-of-contract claim and entered judgment for \$50,000 against the corporation and its two shareholders based on its findings that the corporation was profitable during the one year of the general manager's employment and that it was worth \$5 million. In this appeal by the corporation and its shareholders, we construe the contract and hold that the district court correctly determined that the corporation was profitable, entitling the manager to his contractual ownership share. But we reverse the \$50,000 judgment because the district court improperly entered judgment against the shareholders rather than just the corporation and because it clearly erred by valuing the corporation at \$5 million. We remand for the district court to properly determine the corporation's value and to enter judgment only against the corporation.

FACTS

Autumn Antlers Trophy Whitetail Lodge Inc. (Whitetail) is a Minnesota corporation that, during its operation until 2019, facilitated hunting excursions in Morrison County for its patrons. Douglas Ferns and Dennis Niess are Whitetail's sole shareholders. James Gerchy managed Whitetail from about 2010 to 2013 and again from 2016 to 2017. Gerchy sued Whitetail, Ferns, and Niess in 2021, alleging breach of his 2016 employment contract with Whitetail. He also included equitable claims against Whitetail, Ferns, and Niess based on, among other things, Whitetail's refusal to convey to Gerchy a share of ownership in Whitetail. The district court conducted a bench trial. We now summarize the relevant circumstances and the district court's factual findings.

Ferns had concerns about Gerchy's work ethic during Gerchy's first stint as Whitetail's general manager, but the parties separated on good terms in 2013 when Gerchy left to start his own hunting business in South Dakota. Gerchy represented that his South Dakota business was successful and promised substantial growth. Ferns and Niess approached Gerchy in 2015 and asked him to return to manage Whitetail. Gerchy told Ferns and Niess that he was interested but needed a financial reason to leave his South Dakota business.

The parties negotiated Gerchy's return to Whitetail management. To lure Gerchy from his South Dakota business and incentivize him to perform well, the parties drafted an employment contract that allowed Gerchy the opportunity to obtain equity in Whitetail, contingent on the company's success. The parties volleyed various contract drafts during negotiations. An early draft included a term allowing Gerchy "10% ownership at the end of ten years," and a handwritten note on that draft included an arrow pointing to the figure "+500,000." Gerchy would later testify that Ferns and Niess represented this number as ten percent of the valuation of Whitetail based on "land values, what the lodge was worth," and other assets that "came up to around \$5 million, like roughly speaking."

The parties negotiated further toward a contract that would allow Gerchy to earn one-percent equity in Whitetail annually if, under his management, the business was profitable for that year. Gerchy was concerned that Ferns and Niess would make unnecessary purchases that would increase expenses to artificially prevent the company from showing a profit. The parties settled on the following short contract, which excluded certain expenses when determining profitability:

This is a contract between James P. Gerchy and [Gerchy's wife] and Autumn Antlers Trophy Whitetail Lodge, INC. James will be referred to as Jim and Autumn Antlers Trophy Whitetail Lodge, INC shall be referred to as AA.

Effective January 1, 2016, Jim Gerchy will become a contract worker and future partner of AA. Jim shall have an equal vote for business conducted with AA in all business operations.

Jim shall be contracted at \$4333.33/month. His responsibilities will include overall operation of AA. At the end of each calendar year, if AA has a gross profit of \$50,000 or more, Jim shall receive a 1.5% wage increase. If AA has a gross profit of more than \$100,000, Jim shall receive a 3% wage increase. Exclusions for expenses in regards to gross profit shall include pre paid animal purchases, asset acquisition, and any major equipment purchases. At the end of the each [sic] calendar year, for the term of 10 years, if AA remains profitable each year with above exclusions for expenses, Jim shall earn 1% stock ownership, per year, for a period of 10 years. In the event of a sale of AA within the first five years, Jim would receive a minimum of \$300,000 or the stock ownership, whichever amount is greater. In the event that Jim resigns, is terminated or deceased any time before the 10 year period, then he shall only retain the percentage from the prior year.

Gerchy began work under this contract in January 2016. After his first full year as general manager in 2016, Gerchy gave himself a raise based on his assertion that the business had been profitable. But three months later Ferns objected, asserting that Whitetail had not been profitable in 2016, and he directed Gerchy to reduce his pay. The relationship between Gerchy and the two shareholders soured, and in July 2017 Gerchy quit managing Whitetail. He testified that he left primarily because Whitetail breached the contract by not giving him the one-percent equity share he believed he earned in 2016.

Ferns and Niess sold the assets of Whitetail and its related businesses in 2019. The 2019 purchase agreement reflects that Whitetail owned the assets relating to the “whitetail deer business” while Whitetail Real Estate Holdings LLC and Gold Country Property LLC owned the buildings and real estate. The purchase agreement valued the businesses’ assets at \$4.9 million, with \$3.2 million allocated to buy the buildings, \$900,000 for the land, \$50,000 for equipment, and \$750,000 for a noncompete consulting agreement. Niess testified that investors had previously invested \$5 million in the preserve and \$500,000 in Whitetail. The district court received documentary evidence suggesting that stockholder equity totaled \$404,457.83 in 2016. Ferns and Niess both testified that Whitetail itself was entitled to only \$50,000 from the sale, but Niess acknowledged that the purchase agreement does not expressly indicate the value of the 600 to 700 animals sold or the value of the equipment Whitetail bought in 2016. Niess testified that his and Ferns’s lawyer along with the buyers’ lawyer together allocated the costs in the purchase agreement.

The district court interpreted the parties’ contract and applied its interpretation to the company’s balance sheet to find that Whitetail was profitable in 2016, entitling Gerchy to a one-percent share. And it found that Whitetail was worth \$5 million at the 2019 sale, resulting in a \$50,000 judgment for Gerchy based on his one-percent ownership. The district court reached its \$5 million valuation based on the 2015 contract-draft annotation of “10%” with the arrow pointing to “+500,000,” reasoning that the parties must have agreed that ten percent of the company was worth \$500,000. It factored in Ferns’s precontractual representations that immediate one-percent ownership of the company would be akin to \$50,000 as well as Gerchy’s desire to earn an equity share similar to his

South Dakota business—which Gerchy valued at \$300,000. The district court entered the \$50,000 judgment against Whitetail, Ferns, and Niess.

This appeal follows.

DECISION

Whitetail, Ferns, and Niess appeal from the judgment, offering three arguments. The appellants argue first that the district court erroneously interpreted a term in the contract to conclude that Whitetail was profitable in 2016. They maintain second that, even if we disagree about profitability and hold that Gerchy is entitled to one percent of the company, we should reverse because the district court miscalculated the company’s value. And appellants contend third that the district court improperly entered judgment against all three defendants rather than against only Whitetail. After careful consideration, we conclude that the district court did not err by holding that Whitetail was profitable in 2016 but that it clearly erred in valuing the company at \$5 million and improperly entered judgment against Ferns and Niess individually.

I

Appellants argue that the district court misinterpreted the parties’ contract to find that Whitetail was profitable in 2016, resulting in Gerchy’s entitlement to a one-percent share in the corporation. We interpret the meaning of unambiguous contract terms *de novo*, turning to extrinsic information to aid our interpretation only if the contract is ambiguous. *See Staffing Specifix, Inc. v. TempWorks Mgmt. Servs., Inc.*, 913 N.W.2d 687, 692 (Minn. 2018). The operative contract provision states, “Exclusions for expenses in regards to gross profit shall include pre paid animal purchases, asset acquisition, and any major equipment

purchases.” The parties focus on whether four pieces of equipment that appellants purchased in 2016 constitute “major equipment” under that provision. The disputed 2016 purchased equipment includes a John Deere skid loader (\$54,000), a John Deere tractor (\$13,574), a Kawasaki “Mule” (\$11,211), and a trailer (\$3,825), totaling \$82,610. The appellants maintain that none of these expenses constitutes “major equipment purchases,” so that their cost reduces Whitetail’s 2016 profit, while Gerchy says that all of them constitute “major equipment purchases,” so that their cost does not reduce Whitetail’s 2016 profit.

Gerchy has the better argument. The contract does not expressly define “major equipment purchases,” but we may look to the dictionary to define basic terms. *See Savelle v. City of Duluth*, 806 N.W.2d 793, 797 (Minn. 2011). The dictionary and our understanding of the basic word “major” inform us that it is a term indicating relative significance. It means, “Greater than others in importance or rank,” or “Great in number, size, or extent.” *The American Heritage Dictionary of the English Language* 1059 (5th ed. 2011). The appellants contend that the “major equipment purchases” clause is ambiguous, requiring us to look beyond the contract for its meaning. We think not; contractual language is ambiguous if it is susceptible to more than one reasonable interpretation when considering the meaning assigned to the words and phrases consistent with the apparent purpose of the contract as a whole. *Halla Nursery, Inc. v. City of Chanhassen*, 781 N.W.2d 880, 884 (Minn. 2010). Reading the contract as a whole and applying the ordinary definition, we conclude that the term may be a bit loose in application but certainly not

ambiguous. That is, “major equipment purchases” are those equipment purchases that are greater than other equipment purchases in cost or importance.

Applying this definition leads us to conclude that the skid loader, tractor, and Mule were major equipment purchases in 2016. Each had significant cost (between \$54,000 and \$11,211), and each was important to the business. Niess testified to their importance, and the cost of each amounted to a significant portion of Whitetail’s listed 2016 expenses. Each also far exceeded the cost of most other identified periodic purchases. By contrast, the trailer cost less than half of each of the other three items and, although it was important to the business, it can be treated as a nonmajor purchase.

Given our conclusion that the skid loader, tractor, and Mule constitute major equipment purchases, we have no difficulty affirming the district court’s finding that the company was profitable in 2016. The district court had some difficulty determining how much of a 2016 loss the appellants were alleging, since at one point they said it was \$3,869, at another they said it was \$7,414, and after trial they contended it was \$54,280. They present additional figures on appeal. But even their most extreme claim of a \$54,280 loss does not come close to exclude \$78,785 in major equipment expenses. The approximately \$24,000 profit satisfies the contracted, annual-profit contingency that obligates Whitetail to compensate Gerchy with a one-percent share of the company.

We add that it would be improper for us to determine which of appellants’ various loss calculations is the “true” figure. The district court did not credit any of the evidence offered on this issue, meaning that we would improperly have to find facts to choose a different profitability metric. *See Kucera v. Kucera*, 146 N.W.2d 181, 183 (Minn. 1966).

And the exercise would involve a futile review of tax returns, testimony, and balance sheets, because accepting the appellants' most severe loss calculation and excluding the costs of the major equipment purchases would still end in concluding that Whitetail was profitable in 2016.

II

The district court entered its judgment favoring Gerchy against all appellants. Ferns and Niess argue that the district court should have limited any judgment against only Whitetail, the corporate entity, not its shareholders. The argument has considerable merit.

Generally, only the parties to a contract have obligations that can result in breach-of-contract liability. *Mon-Ray, Inc. v. Granite Re, Inc.*, 677 N.W.2d 434, 439 (Minn. App. 2004) (“[A]s a general rule, nonparties to a contract acquire no rights or obligations under it.”), *rev. denied* (Minn. June 29, 2004). And because Whitetail is its own corporate entity, its shareholders, Ferns and Niess, can be liable for Whitetail's contract breach only if Gerchy provided a basis for the district court to pierce the corporate veil shielding them from personal liability. *See Victoria Elevator Co. v. Meriden Grain Co.*, 283 N.W.2d 509, 512 (Minn. 1979) (describing corporate-veil-piercing factors). Gerchy does not allege that the corporate veil has been pierced here, nor would the record support this claim. Ferns and Niess can be personally liable to Gerchy therefore only if the judgment rests on independent equitable or tort grounds.

It is true that Gerchy's amended complaint included equitable claims against Ferns and Niess as well as his breach-of-contract claim. But despite his pleading of equitable claims in addition to the contract-breach claim, it is clear to us that only the breach-of-

contract claim was tried to and decided by the district court. The record informs us that the district court refused to dismiss Gerchy's unjust-enrichment claim—Gerchy's most referenced noncontract claim on appeal—and refused to dismiss Ferns and Niess individually from the suit under Minnesota Rule of Civil Procedure 12.02, allowing Gerchy to pursue an unjust-enrichment theory against the individual defendants at trial. But the district court implied that Gerchy would need to ultimately elect either contractual or equitable remedies. Gerchy has not filed a notice of related appeal to challenge that restriction, and we therefore do not address whether he could have pursued his unjust-enrichment claim against the individual defendants while also pursuing his breach-of-contract claim against Whitetail. *See City of Ramsey v. Holmberg*, 548 N.W.2d 302, 305 (Minn. App. 1996) (citing Minn. R. Civ. App. P. 106), *rev. denied* (Minn. Aug. 6, 1996). Gerchy pursued only his contract-breach claims. At trial, Gerchy's argument rested on his contract claims, never mentioning unjust enrichment throughout the proceeding nor in closing-argument briefing. Gerchy opened the trial claiming, "[T]his case . . . in its simplest form, comes down to a written contract. What does it mean? What does it provide for under the circumstances that the Court will hear about? That's it. Not much more." "[T]his really is a fairly simple breach of contract case Really the primary and only issues here: was there a contract; what are the terms of that contract . . . and did [Whitetail] breach it." And in closing, Gerchy framed his legal analysis only in terms of contract breach, making a mere passing reference to the notion that Ferns and Niess should be held personally liable "if they have liquidated [Whitetail]." In contrast to his posttrial brief, his proposed order sought the entry of judgment against only Whitetail, not Ferns or Niess. The district court's

posttrial findings and conclusions describe Gerchy's complaint by referencing only his allegations of "breaches of an employment contract." It provides a thorough assessment of potential contract liability and it does not mention, let alone discuss, Gerchy's equitable claims.

We recognize that Gerchy's closing argument emphasized that Ferns's and Niess's allegedly dishonest behavior was a central issue at trial. But the district court did not make any findings or reach any conclusions that would allow us to hold that it was implicitly entering judgment against the individual defendants based on Gerchy's equitable claims. And our review of Gerchy's posttrial argument informs us that he never asked the district court to do so. We must therefore conclude that the district court acted outside its discretion by entering judgment against the individual defendants. On remand, the district court should amend the judgment accordingly.

III

Appellants argue that the district court clearly erred by awarding Gerchy \$50,000, purportedly representing his one percent of the 2019 asset sale. This is a finding of fact that we review for clear error. *See In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021). Our review under this standard leads us to agree that the district court clearly erred by valuing Whitetail at \$5 million.

For starters, the record supports a finding that the asset sale the district court relied on for its valuation was for \$4.9 million, not \$5 million. A fact-finding is clearly erroneous when it is not reasonably supported by the record taken as a whole. *Id.* And the only clear documentary evidence in the record on the 2019 asset sale is the purchase agreement that

lists a total sale price of \$4.9 million, but \$750,000 of this total went to a noncompete agreement, and other amounts went to nonparty corporations Whitetail Holdings and Gold Country Property. The 2019 purchase agreement further reflects that Whitetail owns the assets relating to the “whitetail deer business” while Whitetail Holdings and Gold Country Property own the buildings and land. Based on this allocation, Ferns and Niess testified that Whitetail (the hunting-excursion business) received \$50,000 of the sale price. Although the district court characterized the testimony of the two shareholders as stating that they were “free to allocate the purchase price between assets at their discretion,” the district court did not explain why it was allocating the entire \$4.9 million to represent the value of Whitetail.

An equally fundamental problem in the district court’s rationale is that it seems to have also based the \$5 million valuation on Ferns’s and Niess’s representations of the valuation of the company when the parties negotiated Gerchy’s employment contract in 2015. There is reasonable support for the \$5 million valuation as of 2015, and we have outlined it above. But the district court did not adequately explain, and the record does not otherwise inform us, why it concluded that the 2015 valuation indicates the company’s value four years later at the time its assets were sold in 2019.

Gerchy became a one-percent shareholder in Whitetail after 2016 and is entitled to compensation for that share based on Whitetail’s value from the 2019 sale. On remand, the district court should rely on the record evidence and determine Whitetail’s true value at the

time of the 2019 sale. The district court may at its discretion invite further briefing by the parties to enter findings supported by the record.

Reversed and remanded.