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STATE OF MINNESOTA
IN COURT OF APPEALS
A12-0425

Gennine Ann Navickas,
Appellant,

vs.

Karl N. Quilling, et al.,
Respondents.

Filed September 4, 2012
Affirmed
Bjorkman, Judge

Carver County District Court
File No. 10-CV-07-906

Kurt J. Niederluecke, Laura L. Myers, Fredrikson & Byron, P.A., Minneapolis, Minnesota (for appellant)

Mark A. Olson, Olson Law Office, Burnsville, Minnesota (for respondent Karl N. Quilling)

Considered and decided by Bjorkman, Presiding Judge; Johnson, Chief Judge; and Rodenberg, Judge.

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

BJORKMAN, Judge

This is the third appeal regarding real property the parties purchased and renovated during their cohabitation. Appellant argues that the district court erred by (1) requiring

her to tender to respondent a quitclaim deed to the property and (2) denying her request for costs and disbursements. We affirm.

FACTS

In October 2004, respondent Karl Quilling and appellant Gennine Navickas purchased a house as joint tenants. Quilling paid more than half of the purchase price from his own funds. The parties jointly financed the remainder, but Quilling made all but two of the mortgage payments and paid most of the parties' living expenses. In 2005, Navickas used her own funds to have a swimming pool and landscaping installed. The parties' relationship ended in mid-2006, and Navickas moved out of the house.

Navickas subsequently sued Quilling, alleging breach-of-contract, promissory-estoppel, partition, and unjust-enrichment claims. The first three claims asserted that Navickas has an interest in the real property. Navickas also filed a notice of lis pendens. The district court[1] rejected all of Navickas's claims and awarded Quilling costs and disbursements. The district court also ordered Navickas to deliver to her attorney a quitclaim deed for the house, to be held "until this matter is finalized by an appellate decision or the expiration of the time to appeal," and to remove the notice of lis pendens. Judgment was entered September 30, 2009. Navickas appealed. We affirmed the rejection of Navickas's contract and promissory-estoppel claims but reversed the denial of Navickas's unjust-enrichment claim and remanded for determination of the amount of compensation to which Navickas is entitled based on the value of her investments.

[1] The case was tried before a consensual special magistrate, and the district court adopted all of the magistrate's decisions.

Navickas v. Quilling, No. A10-145, 2010 WL 5290552, at *6-7 (Minn. App. Dec. 28, 2010).

On remand, the district court awarded Navickas $10,000 on her unjust-enrichment claim along with her costs and disbursements "for this proceeding." Judgment was entered October 20, 2011, and Navickas appealed.

While Navickas's second appeal was pending, Quilling moved the district court to order Navickas's counsel to release the quitclaim deed and remove the notice of lis pendens. The district court granted Quilling's motion. In the same order, the district court denied Navickas's request for a specific award of costs and disbursements, concluding that it would be unreasonable to make such an award because Navickas's recovery was "minimal" and "based solely on evidence presented by [Quilling]." This appeal follows.

D E C I S I O N

I. The district court did not err by ordering Navickas to tender a quitclaim deed to Quilling and release the lis pendens because Navickas's claimed property interests were finally determined by the first appeal.

Navickas argues that the district court erred by ordering her to tender a quitclaim deed to Quilling because (1) her second appeal deprived the district court of jurisdiction over that issue, (2) the case is not final, and (3) Quilling has not yet satisfied the unjust-enrichment judgment. We address each argument in turn.

Jurisdiction

We review questions of jurisdiction de novo. *In re Thulin*, 660 N.W.2d 140, 143 (Minn. App. 2003). "[T]he filing of a timely and proper appeal suspends the [district]

court's authority to make any order that affects the order or judgment appealed from, although the [district] court retains jurisdiction as to matters independent of, supplemental to, or collateral to the order or judgment appealed from." Minn. R. Civ. App. P. 108.01, subd. 2.

In its September 2009 decision, the district court concluded that Navickas does not have an interest in the property and ordered her to deliver a quitclaim deed to the property to her attorney and release the lis pendens. We affirmed the determination that Navickas has no claim to the property, remanding only the unjust-enrichment issue. Because the question of Navickas's interest in the property was finally resolved in the first appeal, the district court appropriately did not address it further on remand, and it was not at issue in the second appeal.[2] Accordingly, the second appeal did not deprive the district court of jurisdiction to order delivery of the quitclaim deed pursuant to the September 2009 judgment.

Finality

Navickas also argues that the district court erred by requiring her to deliver the quitclaim deed to Quilling before all aspects of the case are concluded. Navickas points to the language of the September 2009 judgment that directed Navickas's attorney to "hold [the quitclaim deed] *until this matter is finalized* by an appellate decision or the expiration of the time to appeal." (Emphasis added.) We are not persuaded. The district

[2] In our opinion deciding Navickas's second appeal, we concluded that "the district court properly did not address the quitclaim deed on remand" and "the issue is not properly before this court." *Navickas v. Quilling*, No. A11-2148, 2012 WL 2505923, at *5 (Minn. App. July 2, 2012), *pet. for review filed* (Minn. Aug. 1, 2012).

court ordered Navickas to provide a quitclaim deed based on its determination that Navickas has no interest in the property. That decision was finalized when we affirmed that part of the district court's decision and Navickas did not seek further review. *See* Minn. R. Civ. App. P. 136.02 (requiring judgment to be entered on a decision of the court of appeals not less than 30 days after the decision is filed, and immediately upon the denial of a petition for review). And Navickas agrees that the only live issue after the first appeal was her unjust-enrichment claim. We discern no error in the district court's determination that the "matter" that required Navickas to deliver the quitclaim deed—the claims asserting that Navickas has a property interest—has been finalized.

Unjust enrichment

Navickas argues that the district court erred by ordering her to deliver a quitclaim deed before Quilling has satisfied the unjust-enrichment judgment because we held in the first appeal that it would be "an unconscionable result" to require her to deliver the quitclaim deed "without any reimbursement for the value of the benefits conferred." *Navickas*, 2010 WL 5290552, at *7. This argument is unavailing. The quoted language relates to the factual basis for Navickas's unjust-enrichment claim. The opinion clearly affirms the district court's determination that she has no property interests. We conclude that the district did not err by ordering Navickas to deliver the quitclaim deed to Quilling.[3]

[3] Navickas initially also challenged the district court's order that she discharge the notice of lis pendens. Because she subsequently withdrew this argument, we do not address it other than to observe that the final resolution of her claim to the property left no basis for

II. The district court did not abuse its discretion by denying Navickas's request for costs and disbursements.

We review a district court's decision on costs and disbursements for an abuse of discretion. *Benigni v. Cnty. of St. Louis*, 585 N.W.2d 51, 54 (Minn. 1998). Generally, a "prevailing party" is entitled to recover costs and disbursements. Minn. Stat. §§ 549.02, subd. 1, .04, subd. 1 (2010). But "costs may be allowed or not" in equitable actions. Minn. Stat. § 549.07 (2010). And "the district court retains discretion to determine which party, if any, qualifies as a prevailing party." *Benigni*, 585 N.W.2d at 54-55.

Navickas argues that the district court's denial of her request for costs and disbursements amounted to an improper reversal of its October 2011 judgment, which finally determined that she was the prevailing party. We disagree. Costs and disbursements are collateral to a final judgment on the merits. *Kellar v. Von Holtum*, 605 N.W.2d 696, 700 (Minn. 2000), *superseded by rule on other grounds*, Minn. R. Civ. P. 11.03; *see also* Minn. R. Civ. P. 58.01 (stating that entry of final judgment on merits "shall not be delayed for the taxation of costs"). The finality of a judgment on the merits does not mean that a non-specific determination that a party is entitled to costs and disbursements therein is also final. Rather, the district court retains the authority to amend such a determination until it awards specific costs and disbursements. *See Denike v. W. Nat'l Mut. Ins. Co.*, 473 N.W.2d 370, 373 (Minn. App. 1991) (citing *Am. Family Mut. Ins. Co. v. Peterson*, 380 N.W.2d 495, 497 (Minn. 1986)). The October 2011 judgment was final and appealable as to the unjust-enrichment claim but not the issue of

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the lis pendens to continue. *See Rehnberg v. Minn. Homes, Inc.*, 236 Minn. 230, 233-34, 52 N.W.2d 454, 456 (1952) (identifying proper bases for notice of lis pendens).

costs and disbursements. In this respect, it was similar to the general award of costs and disbursements to Quilling in the September 2009 judgment, which Navickas did not challenge until the district court awarded specific costs and disbursements two years later. *See Navickas*, 2012 WL 2505923, at *4-5.

Moreover, the district court's decision reflects the equitable determination that it would be unreasonable to award Navickas costs and disbursements in light of the modest size of her unjust-enrichment award and her failure to provide any evidence supporting the award. *See Benigni*, 585 N.W.2d at 54-55. On this record, we discern no abuse of discretion in the district court's denial of Navickas's requested costs and disbursements.

Affirmed.