STATE OF MINNESOTA
IN COURT OF APPEALS
A12-0824

Thomas W. Holthaus, et al.,
Appellants,

vs.

Michael W. Fulda, et al.,
defendants and third party plaintiffs,
Respondents,

vs.

Randall J. Holthaus, third party defendant,
Appellant,

Mary E. Holthaus n/k/a Mary E. Alm,
third party defendant.

Filed November 13, 2012
Affirmed
Bjorkman, Judge

Wright County District Court
File No. 86-CV-10-4204

Patrick W. Michenfelder, Frederick M. Young, Gries & Lenhardt, PLLP, St. Michael, Minnesota (for appellants)

Kevin J. Dunlevy, Diann L. Dunlevy, Beisel & Dunlevy, P.A., Minneapolis, Minnesota (for respondents Michael W. Fulda, et al.)

Considered and decided by Peterson, Presiding Judge; Bjorkman, Judge; and Cleary, Judge.

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

BJORKMAN, Judge

Appellants challenge the district court's grant of summary judgment on respondents' deed-reformation claim, arguing that there are genuine factual disputes as to what property the deeds were intended to convey. We affirm.

FACTS

This appeal concerns a dispute over approximately six acres of land in Wright County. The six-acre parcel is the southwest portion of a larger lot that appellant Randall Holthaus and his then-wife Mary Holthaus[1] purchased in 1989. Appellant Thomas Holthaus (Randall Holthaus's brother) and his wife appellant Rebecca Holthaus owned then and still own the five-acre lot immediately south of the six-acre parcel. Shortly after purchasing the larger lot, Randall and Mary Holthaus subdivided it and sold two parcels on the eastern half of the lot. When Randall Holthaus and Mary Holthaus divorced in 1994, Randall Holthaus was awarded the remainder of the larger lot: the six-acre parcel and a ten-acre parcel immediately to the north of it.[2]

[1] Mary Holthaus has since changed her name to Mary Alm. Because she was known as Mary Holthaus at most times relevant to this case, we use that name.

[2] The divorce decree erroneously identifies the parcel as a "10-acre" lot, but the legal description includes both the six-acre parcel and the ten-acre parcel. It is undisputed that Randall Holthaus held the title to both parcels after the divorce.

In early 2004, Randall Holthaus agreed to sell his property to respondents Michael Fulda and Leticia DeChene-Fulda. The purchase agreement identified the property by a tax identification number and did not include a legal description or indicate the acreage to be conveyed. On May 3, 2004, Randall Holthaus executed a warranty deed, which contained a legal description that included only the six-acre parcel. He executed a second warranty deed the same day with the same legal description. The deeds were recorded on June 3, 2004, and January 18, 2005, respectively.[3]

In July 2010, Thomas and Rebecca Holthaus initiated a quiet-title action,[4] alleging that they are owners in possession of the six-acre parcel and that respondents do not have any interest in that parcel. Respondents denied the complaint and asserted a deed-reformation claim against Thomas and Rebecca Holthaus and Randall and Mary Holthaus. Respondents allege that they and Randall Holthaus intended the deeds to convey both the six-acre parcel and the ten-acre parcel on which the residence is located but the legal description in the deeds erroneously included language that excluded the ten-acre parcel and therefore conveyed only the six-acre parcel. They sought reformation of the deeds to remove the exclusionary language and thereby convey title to the ten-acre parcel.

[3] Randall Holthaus's reason for executing the second deed is not entirely clear, but it is undisputed that the two deeds contain the same legal description.

[4] Thomas and Rebecca Holthaus originally described it as a quiet-title action, then an adverse-possession action, and eventually adopted the district court's suggestion that it was an action to determine adverse claims under Minn. Stat. § 559.01 (2010).

Thomas and Rebecca Holthaus responded to the reformation claim, admitting that the deeds "contained an incorrect legal description" and that respondents purchased the ten-acre parcel but asserting that Randall Holthaus and respondents did not intend for the deeds to convey the six-acre parcel. Randall Holthaus did not respond to the reformation claim or assert any claims of his own.

Respondents moved for summary judgment dismissing Thomas and Rebecca Holthaus's quiet-title claim and granting respondents' reformation claim. In opposing the motion, Thomas and Rebecca Holthaus, together with Randall Holthaus, argued that fact issues as to who possessed the six-acre parcel and whether the parties intended the deeds to convey the six-acre parcel preclude summary judgment. But they also stated that they "have no objection to a reformation of the [deeds]" to convey the ten-acre parcel to respondents. The district court granted respondents' motion, dismissing Thomas and Rebecca Holthaus's complaint and ordering reformation of the deeds to include the ten-acre parcel.[5] This appeal follows.

D E C I S I O N

On appeal of a district court's grant of summary judgment, we review de novo whether a genuine issue of material fact exists and whether the district court erred in its conclusions of law. *STAR Ctrs., Inc. v. Faegre & Benson, L.L.P.*, 644 N.W.2d 72, 77 (Minn. 2002); *see also SCI Minn. Funeral Servs. v. Washburn–McReavy Funeral Corp.*, 795 N.W.2d 855, 861 (Minn. 2011) (applying de novo standard of review to district

[5] The district court also entered a default judgment against Mary Holthaus on respondents' reformation claim. She does not appeal that judgment.

court's summary-judgment dismissal of rescission and reformation claims). We view the evidence in the light most favorable to the party against whom summary judgment was granted. *Fabio v. Bellomo*, 504 N.W.2d 758, 761 (Minn. 1993).

The sole issue on appeal is whether respondents are entitled to judgment as a matter of law on their claim that the deeds should be reformed to convey the ten-acre parcel.[6] Reformation is the amendment of a written agreement to reflect the parties' true intent at the time of its creation. *Jablonski v. Mut. Serv. Cas. Ins. Co.*, 408 N.W.2d 854, 857 (Minn. 1987). A party seeking to reform a written agreement must establish: (1) a valid agreement between the parties expressing their true intentions; (2) a written instrument that failed to express the parties' true intentions; and (3) this failure was due to a mutual mistake of the parties. *Alpha Real Estate Co. of Rochester v. Delta Dental Plan of Minn.*, 664 N.W.2d 303, 314 (Minn. 2003).

There are no genuine issues of fact bearing on any of the elements of respondents' reformation claim. First, it is undisputed that Randall Holthaus intended to sell, and respondents intended to purchase, the ten-acre parcel. Second, it is undisputed that the deeds are erroneous because they fail to express this intent. Third, it is undisputed that this failure was due to a mutual mistake as to the effect of the legal description contained in the deeds. Having established these elements, respondents are entitled to reformation of the deeds to convey the ten-acre parcel.

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[6] Appellants do not challenge the district court's dismissal of Thomas and Rebecca Holthaus's quiet-title claim.

Appellants argue that summary judgment is nonetheless improper because there is a material factual dispute as to the parties' intent with respect to the six-acre parcel. We disagree. Appellants point to affidavit and deposition testimony that Randall Holthaus did not intend to sell the six-acre parcel to respondents, but this evidence does not create a genuine issue of fact material to *respondents'* reformation claim. Rather, this evidence would address a different reformation claim—related to the six-acre parcel—that no party raised in this litigation. Appellants argue that we should liberally construe Thomas and Rebecca Holthaus's complaint to assert a reformation claim as to the six-acre parcel. We are not persuaded. Thomas and Rebecca Holthaus's claim that they have a possessory interest in the six-acre parcel involves proof of facts entirely different from those required for reformation, and there is no way to liberally construe their complaint to include a claim that only Randall Holthaus could assert. *See Manderfeld v. Krovitz*, 539 N.W.2d 802, 805 (Minn. App. 1995) (stating that reformation is limited to original parties and those in privity with them), *review denied* (Minn. Jan. 25, 1996). Moreover, Randall Holthaus, the only person entitled to assert a reformation claim with respect to the six-acre parcel, expressly disavowed any current interest in the six-acre parcel.

On this record, the district court did not err by concluding that no genuine issues of material fact preclude summary judgment in favor of respondents on their claim to reform the deeds to reflect the parties' intent to convey the ten-acre parcel.

Affirmed.