STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0030

Leo Gadbois,
Appellant,

vs.

Irvine Hill Condominium Association,
Respondent.

Filed September 3, 2024
Affirmed
Reyes, Judge

Ramsey County District Court
File No. 62-CV-22-1219

Robert M. McClay, McClay-Alton, PLLP, St. Paul, Minnesota (for appellant)

Jessica C. Richardson, Tomsche, Sonnesyn & Tomsche, PA, Minneapolis, Minnesota (for respondent)

Considered and decided by Reyes, Presiding Judge; Slieter, Judge; and Kirk, Judge.*

NONPRECEDENTIAL OPINION

REYES, Judge

Appellant-apartment owner challenges the district court's grant of summary judgment to respondent-association, arguing that the district court erred by determining that the Minnesota Common Interest Ownership Act (MCIOA), Minn. Stat. §§ 515B.1-

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

101–.4-118 (2022 & Supp. 2023), and respondent's governing documents precluded him from constructing a solarium on the patio adjoining his apartment. We affirm.

FACTS

In August 2019, appellant Leo Gadbois purchased an apartment[1] in a St. Paul residential building managed by respondent Irvine Hill Condominium Association (Irvine Hill). Irvine Hill's board of directors (the board) operates the building in accordance with its governing documents, which are the Irvine Hill Declaration (the declaration) and the Bylaws of Irvine Hill (the bylaws). In July 2021, Gadbois submitted a proposal to the board to allow him to construct a solarium on the patio adjoining his apartment. The board denied Gadbois's proposal on three separate occasions from July to December 2021.

Gadbois sued Irvine Hill, seeking a declaratory judgment that would allow him to construct the proposed solarium. Upon completion of discovery, the parties filed cross motions for summary judgment. Following a hearing on the parties' motions, the district court issued an order in November 2023 granting summary judgment to Irvine Hill. The district court reasoned that, under the MCIOA and Irvine Hill's governing documents, Gadbois required permission from the board to make alterations to a "limited common area" such as the patio.

This appeal follows.

[1] The MCIOA uses the general term "unit" to refer to the relevant property. We acknowledge that the term "condominium" generally refers to a unit that is owned rather than rented. However, because Irvine Hill's governing documents define the unit as an "apartment" as noted below, we use that term.

DECISION

Gadbois argues that the district court erred by granting summary judgment to Irvine Hill because (1) the MCIOA does not prevent him from making alterations to a limited common area; (2) the declaration provision granting him an exclusive easement to use the patio conferred the right to construct the solarium; and (3) ambiguities in the bylaws should be interpreted against Irvine Hill to allow him to construct the solarium. We address each argument in turn.

Appellate courts review a grant of summary judgment de novo to determine whether there are genuine issues of material fact and whether the district court misapplied the law. *Kenneh v. Homeward Bound, Inc.*, 944 N.W.2d 222, 228 (Minn. 2020). As the nonmoving party, Gadbois is entitled to have the evidence viewed in the light most favorable to him. *Id.* However, "[a] defendant is entitled to summary judgment as a matter of law when the record reflects a complete lack of proof on an essential element of the plaintiff's claim." *Lubbers v. Anderson*, 539 N.W.2d 398, 401 (Minn. 1995).

Unless it is inconsistent with the declaration or the bylaws, the MCIOA governs the respective rights for Irvine Hill and its apartment owners. Minn. Stat. § 515B.1-102(b)(1). Reviewing the MCIOA presents a question of statutory interpretation which appellate courts review de novo. *Bus. Bank v. Hanson*, 769 N.W.2d 285, 288 (Minn. 2009). We apply the plain meaning of unambiguous statutory language. *Borth v. Borth*, 970 N.W.2d 699, 702 (Minn. App. 2022).

Similarly, interpreting the declaration and the bylaws presents a question of contract construction, which we review de novo. *Isaacs v. Am. Iron & Steel Co.*, 690 N.W.2d 373,

376 (Minn. App. 2004), *rev. denied* (Minn. Apr. 4, 2005). Unless the contract language is ambiguous, its plain meaning controls. *Hanson*, 769 N.W.2d at 288. Contract language is ambiguous if it is susceptible to more than one reasonable interpretation. *Id.* If a contract is ambiguous, its interpretation becomes a question for the factfinder. *Baker v. Best Buy Stores, LP*, 812 N.W.2d 177, 180 (Minn. App. 2012), *rev. denied* (Minn. Apr. 25, 2012).

I. The plain language of the MCIOA and the declaration prohibits Gadbois from constructing the solarium without the board's approval.

Gadbois argues that nothing within the MCIOA precludes him from constructing the solarium because the declaration defines the patio adjoining his apartment as a "limited common area," rather than a common area. We are not convinced.

Under the MCIOA, Gadbois's ownership interest is limited to the boundaries of his apartment as defined by the declaration. Minn. Stat. § 515B.1-103(35). Paragraph five of the declaration defines an "apartment" as "the area measured horizontally between the *interior* unfinished surfaces of the perimeter walls or *interior* loadbearing walls and vertically between the interior unfinished surfaces of the loadbearing floor and ceiling." (Emphasis added.) The declaration also states that any outdoor patio adjacent to an apartment "shall be deemed limited common area."

The MCIOA states that "all portions of the common interest community other than the [apartment] units" are considered "common elements" owned by Irvine Hill. Minn. Stat. § 515B.1-103(7). The MCIOA allows Irvine Hill to adopt rules and regulations in its governing documents "regulating the use of the common elements," "regulating changes in the appearance of the common elements," and "regulating the exterior appearance of the

common interest community, including, for example, balconies and *patios*." Minn. Stat. § 515B.3-102(a)(1) (emphasis added). The MCIOA prohibits unit owners from making any "alterations" to their unit that "affect the common elements." Minn. Stat. § 515B.2-113(a). Under the plain and unambiguous language of the MCIOA, Irvine Hill retained the exclusive right to make alterations to the common areas, and because the patio adjoining Gadbois's apartment is not part of his apartment unit, it is a common area. Therefore, Irvine Hill, not Gadbois, has the exclusive right to make alterations to the patio.

Gadbois's argument that the MCIOA and declaration do not apply to his proposal because the declaration defines the patio as a "limited common area" rather than a common area is unpersuasive. The MCIOA defines "limited common element"[2] as "*a portion of the common elements* allocated by the declaration . . . for the exclusive use of one or more but fewer than all of the units." Minn. Stat. § 515B.1-103(20) (emphasis added). Similarly, paragraph seven of the declaration defines a limited common area as "[a]ny part of the common areas . . . including . . . an adjoining patio." Limited common areas are therefore a subset of common areas under both the MCIOA and the declaration, meaning that they are governed by the provisions of the MCIOA and the declaration that govern all "common [areas]." Because the MCIOA and the declaration give Irvine Hill the exclusive right to alter common areas, and because the patio, as a "limited common area," is a subset of the "common areas," Gadbois does not have the right to alter the patio by constructing the solarium.

[2] We interpret the terms "area" and element" as used in the MCIOA and the governing documents to be interchangeable terms.

II. Gadbois's exclusive easement to use the patio did not give him the right to alter the patio, a limited common area, by constructing a solarium on it.

Gadbois contends that the declaration provision granting him an exclusive easement to use the patio is ambiguous and that it should be interpreted against Irvine Hill to allow him to construct the solarium. We are not persuaded.

When an individual is granted an easement, they receive the right to a limited, particular use of land that is owned by another. *Minneapolis Athletic Club v. Cohler*, 177 N.W.2d 786, 789 (Minn. 1970). The sum of the "particular privileges" granted by the conveying document defines the easement's scope. *Id.*

Here, the conveyance in paragraph seven of the declaration provides that:

> Any part of the common areas and facilities which is reasonably necessary for and exclusively serves the enjoyment and use of a particular apartment, including specifically, but without limitation, *an adjoining patio*, deck or balcony, shall be encumbered with *an exclusive easement appurtenant for such use for which it is designed*, in favor of the owner of the apartment which it exclusively serves.

(Emphasis added.) Gadbois argues that the easement language is ambiguous because the term "use" is broad and could be interpreted to allow him to alter the patio by constructing a solarium. This interpretation is not reasonable. Using a patio and making alterations to a common area are two different privileges, and the scope of an easement is limited to the "particular privileges" granted by the conveyance. *Id.* at 789. Here, Gadbois's conveyance grants him only the privilege to use the patio, while the MCIOA and the governing documents explicitly provide Irvine Hill with the sole power to make alterations to common areas. Gadbois's argument therefore fails.

Similarly, Gadbois's reliance on *Apitz v. Hopkins* to assert that any "exclusive easement" is per se ambiguous is unpersuasive. 863 N.W.2d 437 (Minn. App. 2015). In *Apitz*, we reversed an order for summary judgment after concluding that a deed which conveyed "an exclusive easement for ingress, egress and utility purposes" was ambiguous as to whether the easement owner could also exclude the conveyor from the subject property. *Id.* at 438-39. Notably, the easement in *Apitz* pertained to a lot between two residential neighbors who owned the dominant and servient estates. *Id.* at 438.

The easement at issue in this case is readily distinguishable from the one we concluded was ambiguous in *Apitz*. Here, Irvine Hill, a condominium association, conveyed an easement to Gadbois to use the patio adjoining his apartment. Unlike *Apitz*, the nature of the parties' relationship and the other provisions in the declaration show that the easement could not be reasonably interpreted to exclude Irvine Hill from access to the patio given Irvine Hill's exclusive right to make changes to the patio. *See Thompson v. Germania Life Ins. Co.*, 106 N.W. 102, 104 (Minn. 1906) (noting that easement's "nature and extent are to be determined by an examination of the agreement creating it"); *Cohler*, 177 N.W.2d at 789-90 ("It is well[-]settled that the extent of an easement should not be enlarged by legal construction beyond the objects originally contemplated or expressly agreed upon by the parties.").

Here, the declaration states that "[a]ll . . . structural maintenance of limited common areas and facilities shall be made by [Irvine Hill]." The bylaws additionally provide that the powers of the board include "[o]peration, care, upkeep, maintenance, repair and replacement of the common areas" as well as "[d]etermination of the common expenses

required for the affairs of [Irvine Hill], including, without limitation, the operation and maintenance of the common areas." Irvine Hill's governing documents show that Irvine Hill retains the sole power to make alterations to its common areas, which is consistent with the controlling provisions of the MCIOA. Minn. Stat. §§ 515B.2-113, 515B.3-102(a)(1). We therefore conclude that Gadbois's limited easement to use the patio is consistent with the provisions in both the MCIOA and the governing documents that preclude him from making alterations to common areas. Because Gadbois fails to present a reasonable interpretation of the declaration that would allow him to make alterations to the patio, we conclude that the plain and unambiguous language of the declaration prohibits Gadbois from constructing the solarium. *Hanson*, 769 N.W.2d at 288.

III. There are no relevant ambiguities in the bylaws.

Gadbois next asserts that the district court erred by relying on an ambiguous bylaw provision to grant summary judgment to Irvine Hill. We disagree.

The bylaw provision that Gadbois claims is ambiguous states that:

> Without the prior written consent of the Board of Directors, no apartment owner shall make any addition, alteration or improvement in or to an *apartment* or engage in any other activity that would or might jeopardize or impair the safety or structural soundness of the property, or impair any easement.

(Emphasis added.) However, this bylaw provision is irrelevant to the issue because it involves alterations to an apartment, not to limited common areas such as the patio. Moreover, we conclude that the district court properly based its order on the provisions in the MCIOA and the governing documents that reserve the right to make alterations to common areas to Irvine Hill. Because Irvine Hill retained the exclusive right to make

alterations to the common areas under the plain language of the MCIOA and the governing documents, the district court did not err by granting summary judgment to Irvine Hill.

Affirmed.