

*This opinion is nonprecedential except as provided by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
A24-0966**

In re the Estate of: Jose Antonio Chimborazo Quizhpi, decedent.

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

Hennepin County District Court
File No. 27-PA-PR-23-1431

Amanda K. Oliver, Christopher M. Daniels, Parker Daniels Kibort LLC, Minneapolis,
Minnesota (for appellant Jairo David Buri Chimborazo)

Joseph A. Palchizaca, Albertville, Minnesota (pro se respondent)

Considered and decided by Smith, Tracy M., Presiding Judge; Schmidt, Judge; and
Reilly, Judge.*

NONPRECEDENTIAL OPINION

SCHMIDT, Judge

Appellant Jairo David Buri Chimborazo contests a district court decision denying his petition for allowance of a claim previously disallowed against the estate of decedent Jose Antonio Chimborazo Quizhpi.¹ Because the district court dismissed the claim as untimely without finding when the claim arose, we reverse and remand.

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

¹ We refer to appellant as “Chimborazo” and decedent as “Quizhpi.”

FACTS

Chimborazo is Quizhpi's nephew, and respondent Joseph A. Palchizaca is Quizhpi's child. Quizhpi purchased a house in Minneapolis in 2017 and died three years later. In January 2023, Palchizaca became the personal representative of Quizhpi's estate.

On May 18, 2023, Chimborazo filed a claim against Quizhpi's estate. Chimborazo's filing alleged: (1) when Quizhpi purchased the house in 2017, he had an agreement with Chimborazo that Chimborazo would pay the mortgage on the home;² (2) in exchange, Quizhpi promised that title to the home would transfer to Chimborazo once Chimborazo satisfied the obligations to the lender; (3) in reliance on the promise, Chimborazo made payments directly to the lender; (4) Chimborazo also "paid property taxes, performed routine maintenance tasks, and maintained insurance on the [house]" for over five years; and (5) on March 24, 2023, after Quizhpi died, Palchizaca sold the house in violation of Chimborazo's agreement with Quizhpi. Because of the sale, Chimborazo claimed that the estate owed him "\$43,000 plus an undetermined amount that is no less than [his] equitable interest in [the] home." Chimborazo asserted, among other bases for relief, promissory estoppel to enforce his agreement with Quizhpi. On August 2, 2023, Palchizaca filed a notice of disallowance against Chimborazo's claim.

In January 2024, Chimborazo moved the district court for allowance of a claim previously disallowed and filed a memorandum in support of his motion. In addition to reiterating his argument that promissory estoppel entitled him to relief, Chimborazo argued

² Chimborazo has not alleged that the agreement was in writing.

that his claim was timely because the claim arose on March 24, 2023, when Palchizaca conveyed the home. As an exhibit to his motion, Chimborazo included a deed of sale, which memorialized that Palchizaca—in his capacity as the personal representative for Quizhpi’s estate—conveyed the home on March 24, 2023. Chimborazo and his wife also filed affidavits attesting to the agreement with Quizhpi and claimed that Chimborazo paid the mortgage and expenses on the home consistent with the agreement. Chimborazo attached several exhibits to his affidavit, including records of the mortgage and payments that he alleged to have made. He also attached letters from relatives who stated that Quizhpi helped Chimborazo with his credit to purchase the home, and that Chimborazo paid the mortgage and other expenses on the home.

On April 17, 2024, the district court filed an order dismissing Chimborazo’s petition for allowance of a claim previously disallowed. In its findings of fact, the district court did not identify when Chimborazo’s claim arose. But in its conclusions of law, the district court dismissed Chimborazo’s claim based on Minn. Stat. § 524.3-803(a)(3) (2022), which applies only to claims that arise before the decedent’s death. The court determined that Chimborazo’s claim failed because he did not bring it “within one year after the decedent’s death, whether or not notice to creditors [had] been published or served.” Minn. Stat. § 524.3-803(a)(3). The district court did not address Chimborazo’s promissory estoppel arguments.

Chimborazo appeals.

DECISION

Chimborazo argues that the district court erred by dismissing his claim as untimely under Minn. Stat. § 524.3-803(a)(3) because the claim arose after Quizhpi’s death—when Palchizaca conveyed the property—and, therefore, Chimborazo’s claim was timely under Minn. Stat. § 524.3-803(b)(2) (2022).³ In a probate action, we review a district court’s factual findings for clear error and its legal conclusions de novo. *In re Estate of Short*, 933 N.W.2d 533, 537 (Minn. App. 2019).

Under Minn. Stat. § 524.3-803(b)(2), a party must bring a claim that arises “at or after the death of the decedent . . . within four months after it arises.” By comparison, Minn. Stat. § 524.3-803(a)(3) requires a party to bring a claim that arises “before the death of the decedent . . . within one year after the decedent’s death.”

Here, the district court did not make a finding as to when Quizhpi’s claim arose. In its conclusions of law, the district court dismissed Chimborazo’s claim as untimely because he did not bring the claim “within one year after the decedent’s death” as required by Minn. Stat. § 524.3-803(a)(3). But the question of when the claim arose was a disputed issue that is central to the timeliness of the claim. Because the facts are disputed and the record is not reasonably clear, we must reverse and remand for the district court to make findings as to when the claim arose. *See Bettes v. Fuel-Scott*, 415 N.W.2d 409, 412 (Minn. App. 1987) (reversing and remanding because the lack of findings “inhibits this court’s ability to review the [district] court’s actions”); *see also Roberson v. Roberson*, 206 N.W.2d 347,

³ Palchizaca did not file a brief on appeal, and we ordered the case to be determined on the merits as provided in Minn. R. Civ. App. P. 142.03.

348 (Minn. 1973) (“[W]here the record is reasonably clear and the facts not seriously disputed, the judgment of the trial court can be upheld in the absence of trial court findings However, where the record is not clear and the facts are in dispute, findings of fact . . . should be made.”).

Because we reverse and remand for findings on the timeliness of Chimborazo’s claim, we need not decide the other arguments that Chimborazo raises on appeal. We remand for further proceedings not inconsistent with this opinion. On remand, the district court has discretion to reopen the record.

Reversed and remanded.