Circuit Court for Baltimore City
Case No. 24-C-22-000904

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 178

September Term, 2024

FLB CONSTRUCTION, LLC

v.

K & D HOME IMPROVEMENT, LLC

Graeff,
Zic,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zic, J.

Filed: December 22, 2025

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

This case arises from a contract dispute between K & D Home Improvement, LLC ("K & D"), appellee, FLB Construction, LLC ("FLB"), appellant, and FLB's sole member, Femi Bukoye, involving renovation work on a residential property ("Property"). K & D filed suit against FLB[1] in the Circuit Court for Baltimore City. Following a bench trial, the court held that FLB breached the parties' contract and awarded K & D $7,800 in damages. FLB now appeals.

QUESTIONS PRESENTED

FLB presents three questions for our review, which we have recast and rephrased as follows:[2]

1. Whether the circuit court erred in finding that there was a contract between the parties regarding the work to be completed on the Property's basement.

2. Whether the circuit court erred in finding that FLB breached the contract.

---

[1] K & D's complaint was filed against both FLB and Mr. Bukoye. The circuit court's order found in favor of K & D only as "against the corporate defendant." For this reason, we have removed Mr. Bukoye as a party to this appeal.

[2] FLB phrased the questions as follows:

1. Did the trial court err in finding a contract existed between the parties regarding the work to be performed in the basement?
2. If there was a valid and enforceable agreement, did the trial court err in its construction of the terms of the agreement as to the basement?
3. If there is a valid and enforceable agreement, did the trial court err in entering judgment in favor of [K & D] in the full amount of $7,800?

3. Whether the circuit court erred in awarding K & D $7,800 in damages.

For the following reasons, we affirm.

BACKGROUND[3]

In September 2018, K & D purchased a townhouse (previously, "Property") in Baltimore, Maryland, with the intention of renovating. At some point thereafter, FLB emailed to K & D a scope of work, which included specific construction items, labor, and materials costs, for an estimated project total of $50,000. Pursuant to this scope of work, K & D began executing checks to FLB for the completion of specific construction items.

The parties' working relationship deteriorated over communication and payment issues. In September 2019, K & D executed a check to FLB for $7,800. The check's memo line stated: "Completion of the basement."[4] From this Court's understanding of the record, it appears undisputed that FLB deposited this check, but did not return to the Property to continue renovations on the Property's basement. K & D later hired another contractor to "finish" the renovation of the Property.

The Trial

In February 2022, K & D filed a seven-count complaint against FLB and Mr. Bukoye, alleging one count of each of the following: breach of contract; negligent

[3] At the outset, we recognize that much of the testimony in the underlying trial, as well as the arguments contained in the parties' respective appellate briefs, are unclear.

[4] No copy of this check appears in the record before us. For the sake of thoroughness, we note that at some points in the testimony, the memo line is also quoted as stating: "To complete the basement." Regardless, Mr. Bukoye testified that the check was payment for "[w]ork that needed to be done in the basement."

construction; negligent misrepresentation; negligent repair; quantum meruit; unjust enrichment; and detrimental reliance. The circuit court held a two-day bench trial in November 2023.

In its case-in-chief, K & D elicited testimony from: Dorothy Addo, K & D's owner; David Kamagate, the realtor who assisted Ms. Addo in purchasing the Property; and Assane Diallo, the subsequent contractor. Ms. Addo testified that FLB did not perform additional work on the Property after depositing the $7,800 check, and Mr. Diallo, who was admitted as an expert in residential construction, testified that the basement was not "complete" when he began renovation work at the Property in October 2019.

After K & D rested, counsel for FLB and Mr. Bukoye moved for summary judgment pursuant to Maryland Rule 2-519.[5] The circuit court granted FLB's motion for all claims except for breach of contract regarding the work on the Property's basement:

> I've reviewed all the evidence that was submitted. And I am going to make a partial judgment in favor of [FLB]. With regard to the claim of breach of contract, I believe that with the except[ion] of the check that was written on September 2[5]th, which has a memo, "Completion of the basement," that was for $7,800, that [], I do find, taking the evidence in a light most favorable to [] [K & D], at this time, as I must under Rule 2-519, that there is at least sufficient evidence to get past the motion as it relates to the amount that was paid, which is expressly for the purpose of completing the

[5] In relevant part, Maryland Rule 2-519(a) provides that "[a] party may move for summary judgment on any or all of the issues in any action at the close of the evidence offered by an opposing party[.]"

> basement renovation, which from the photographs[6] was clearly not completed.

FLB's counsel began its defense by calling its only witness, Mr. Bukoye. Mr. Bukoye testified that the $7,800 check was for work that had "to be done" in the Property's basement, namely: framing the basement wall, framing and drywalling the basement ceiling, and preparing the walls for paint. Mr. Bukoye testified that this work was completed. Mr. Bukoye's testimony was the only evidence that FLB presented.

Following closing arguments, the circuit court found in favor of K & D, stating that it "believe[d] [K & D] ha[d] met its burden of proof that there was an agreement that [FLB] would complete the basement." The court further explained:

> [T]he photos speak for themselves. There's framing in the utility area with no drywall. That framing was deemed to be necessary by [] [K & D's] subsequent contractor in order to hook up the utility sink. . . . And it's just obvious from the photos that the basement is not finished and is incomplete.

The circuit court also reasoned that, because FLB did not offer an expert for the purposes of "portionality[,]" the damage award would be the entirety of the check amount, or $7,800. After trial, FLB's counsel filed an unsuccessful motion to alter or amend the judgment pursuant to Maryland Rule 2-534. FLB then noted the instant appeal. We supplement with additional facts as necessary.

[6] Multiple sets of photographs were introduced at trial, many of which were not admitted into evidence. In its ruling, the court appears to be referencing photographs taken in October 2019. FLB does not explicitly identify the photos in the record before this Court as the ones relied upon by the circuit court in its ruling.

DISCUSSION

I. THE CIRCUIT COURT DID NOT ERR IN FINDING THAT A CONTRACT EXISTED BETWEEN THE PARTIES REGARDING WORK TO BE COMPLETED IN THE PROPERTY'S BASEMENT.

A. The Parties' Contentions

On appeal, FLB argues that the circuit court erred in finding that a valid contract existed between the parties with respect to the completion of work in the Property's basement. FLB specifically contends that K & D "failed to provide any evidence of the essential terms of an agreement related to the basement[.]" K & D counters that there was competent evidence on the record to establish that a contract existed between FLB and K & D. In support, K & D points to the $7,800 check written by K & D and addressed to FLB, containing the notation "[c]ompletion of the basement[]" written in the memo line. K & D also argues that FLB's admission at trial that the check was made for this purpose establishes the existence of an agreement between the parties.

B. Standard of Review

Where an alleged contract is composed partly by writing and partly by parol, the determination of whether a contract exists is a question of fact. *Severin v. Robert S. Green, Inc.*, 166 Md. 305, 307 (1934). This Court will not set aside factual findings of a trial court on the evidence unless clearly erroneous. Md. Rule 8-131(c). "Under the clearly erroneous standard, this Court does not sit as a second trial court, reviewing all the facts to determine whether an appellant has proven his case." *Webb v. Nowak*, 433 Md. 666, 680 (2013) (citations and marks omitted). "If any competent material evidence

exists in support of the trial court's factual findings, those findings cannot be held to be clearly erroneous." *Id.* at 678.

C. Analysis

We begin with the basics. A contract is "an agreement which creates an obligation[.]" *Post v. Gillespie*, 219 Md. 378, 384 (1959) (citations and marks omitted). Mutual assent by the parties to an agreement is an essential prerequisite to contract formation. *Peer v. First Fed. Sav. & Loan Ass'n of Cumberland*, 273 Md. 610, 614 (1975). Mutual assent includes: (1) the intent to be bound and (2) definite terms. *Falls Garden Condo. Ass'n, Inc. v. Falls Homeowners Ass'n, Inc.*, 441 Md. 290, 302 (2015).

As to intent to be bound, Maryland courts consider:

> (1) the language of the preliminary agreement, (2) the existence of open terms, (3) whether partial performance has occurred, (4) the context of the negotiations, and (5) the custom of such transactions, such as whether a standard form contract is widely used in similar transactions.

Id. (quoting *Cochran v. Norkunas*, 398 Md. 1, 15 (2007)). As to definiteness of terms, the relevant inquiry is whether any indefiniteness may cause difficulty in administering the agreement. *Falls Garden Condo. Ass'n, Inc.*, 441 Md. at 304; *see 4900 Park Heights Ave. LLC v. Cromwell Retail 1, LLC*, 246 Md. App. 1, 31 (2020) ("If an agreement omits an important term, or is otherwise too vague or indefinite with respect to an essential term, it is not enforceable.").

Based on our review of the record before us, it appears that neither party disputed at trial the existence of the September 2019 check with the notation, "[c]ompletion of the basement." During his direct examination, Mr. Bukoye testified that he not only received

and deposited the check, but also that he believed the check was intended to pay for "[w]ork that needed to be done in the [Property's] basement." Mr. Bukoye then explained that the work "to be done" included framing the basement walls and framing, drywalling, skimming, and taping the basement ceiling.

Mr. Bukoye's testimony demonstrates that he knew there was an agreement between the parties. He indicated that he received and deposited the check and listed for the court what tasks were necessary to "[c]omplet[e] the basement." This testimony evinces that Mr. Bukoye intended to be bound by and understood the definite terms of the agreement. *See Falls Garden Condo. Ass'n, Inc.*, 441 Md. at 302 (defining both mutual assent requirements). Thus, because there is competent evidence in the record to support the existence of a contract, *Webb*, 433 Md. at 678, we hold that the court did not clearly err in finding such.

II. THE RECORD OMITS EVIDENCE NECESSARY TO INTERPRET THE CONTRACT.

A. The Parties' Contentions

Next, FLB argues that the circuit court "erred as a matter of law when it inferred 'to complete the basement' included the installation of a utility and sump-pump." FLB contends that "[t]here was no written evidence to support those terms nor was there testimony that [K & D] requested those items be done or that FLB's $7,800 charge included that work." In response, K & D appears to argue that, as a matter of fact, the trial court did not err in finding that FLB failed to install the utility sink and sump-pump because the court cited to "documentary and photographic evidence in support" of the judgment.

B. Analysis

"Contract interpretation 'involves discerning the terms of the contract itself.'" *Atl. Contracting & Material Co., Inc. v. Ulico Cas. Co.*, 380 Md. 285, 301 (2004) (quoting *Fister v. Allstate Life Ins. Co.*, 366 Md. 201, 210 (2001)). "The interpretation of a contract[] . . . is a question of law, subject to *de novo* review." *HESS Constr. + Eng'g Servs., Inc. v. Francis O. Day Co., Inc.*, 264 Md. App. 567, 593 (2025) (internal alterations and citation omitted). When we review an issue *de novo*, the matter is considered "anew as if it had not been heard before and as if no decision had been previously rendered." *Pollard's Towing, Inc. v. Berman's Body Frame & Mech., Inc.*, 137 Md. App. 277, 288 (2001) (citation omitted).

An appellant must provide a record extract with "all parts of the record that are reasonably necessary for the determination of the questions presented by the appeal[.]" Md. Rule 8-501(c). Compliance with this Rule is especially important where, as here, an appellant raises an issue requiring *de novo* review. *See AK's Daks Commc'ns, Inc. v. Maryland Securities Division*, 138 Md. App. 314, 337 (2001) ("When an appellant raises a sufficiency of the evidence argument, the portions of the record that are material to the issue must be included in either the record extract or an appendix to the brief.") (citing *Sawyer v. Novak*, 206 Md. 80, 84 (1955)).

The record extract provided by FLB omits several pieces of evidence necessary for this Court's analysis of whether the contract included the terms for the installation of the utility sink and sump-pump, including: the copy of the September 2019 check for

$7,800; the scope of work email; and the photographs admitted at trial.[7] K & D did not file an appendix to supplement the record. It is the parties' obligation to provide this Court with a complete record, Maryland Rule 8-501(c), and we cannot interpret the terms of the contract *de novo* without these items. *AK's Daks Commc'ns, Inc.*, 138 Md. App. at 337. Accordingly, we shall not reach this issue.

III. THE CIRCUIT COURT DID NOT ERR IN AWARDING $7,800 TO K & D.

Last, FLB argues that the circuit court's award of $7,800 to K & D was "not based on any competent evidence, but simply speculation[.]" FLB reasons that "because the burden of proof [was] on [] [K & D] to prove damages, the judgment must be vacated." K & D does not respond to this argument.

As findings of fact, Maryland appellate courts review compensatory damage awards for clear error. Md. Rule 8-131(c); *Superior Const. Co. v. Elmo*, 204 Md. 1, 14-15 (1954). Generally, "[d]amages for breach of contract 'seek to vindicate the promisee's expectation interest.'" *Hall v. Lovell Regency Homes Ltd.*, 121 Md. App. 1, 13 (1998) (quoting *Andrulis v. Levin Constr.*, 331 Md. 354, 374 (1993)). "The amount of damages recoverable for breach of contract is that which will place the injured party in the monetary position he would have occupied if the contract had been properly performed." *Hall*, 121 Md. App. at 12 (citing *Beard v. S/E Joint Venture*, 321 Md. 126, 133 (1990)). "[A]n award for compensatory damages must be anchored to a rational

[7] As previously stated, the record extract includes photographs that are unmarked and undated. It is unclear whether these particular photographs are the ones introduced, admitted, and relied upon by the circuit court at trial.

basis on which to ensure that the awards are not merely speculative." *Exxon Mobil Corp. v. Albright*, 433 Md. 303, 414 (2013); *see Hall*, 121 Md. App. at 13 ("Compensatory damages . . . may be recovered subject to limitations of remoteness and speculativeness.") (internal marks and quotation omitted).

Here, the circuit court did not specify whether the $7,800 award to K & D was compensatory. On appeal, FLB concedes, and K & D appears to agree, that the award was compensatory. The only issue properly before us, therefore, is whether there is competent material evidence in the record to support the court's $7,800 award to K & D.

At trial, the circuit court heard testimony about and received into evidence the September 2019 check, which was executed by K & D for FLB in the amount of $7,800—the same amount as the contested damage award—for the express purpose of "[c]omplet[ing] [] the basement." Neither party disputed the amount of the check at trial, and Ms. Addo testified that FLB did not complete any work on the Property after receiving the check. These facts provide a "rational basis" for the $7,800 damages award to K & D. *Albright*, 433 Md. at 414. For this reason, we hold that the court did not clearly err in granting the disputed damages award.

CONCLUSION

We hold that the circuit court did not clearly err in finding that there was a contract between K & D and FLB or in awarding damages to K & D in the amount of

\$7,800. Additionally, we hold that the record is inadequate for this Court to interpret *de novo* the terms of the contract.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED; COSTS TO BE PAID BY APPELLANT.