

Circuit Court for Prince George's County
Case No. CAE17-21699

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 888

September Term, 2021

PEGGY ANN MARTIN

v.

JEAN ROBERT DOLET

Graeff,
Arthur,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Graeff, J.

Filed: August 8, 2022

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

This case is the fifth appeal relating to real property located on Peachtree Lane in Bowie, Maryland (“Peachtree Lane”), which was part of a divorce agreement (“Divorce Agreement”). Peachtree Lane ultimately was sold pursuant to a sale in lieu of partition. *See Martin v. Dolet (Martin I)*, No. 1218, Sept. Term, 2017 (filed Feb. 5, 2019). This case involves Peggy Ann Martin’s breach-of-contract claim for damages due to Jean Robert Dolet’s alleged breach of the Divorce Agreement. The Circuit Court for Prince George’s County found that Mr. Dolet breached the Divorce Agreement, and it awarded Ms. Martin \$9,029.45 in compensatory damages, \$17,600 in attorney’s fees, and \$625 in costs.

On appeal, Ms. Martin presents the following question¹ for this Court’s review:

Did the circuit court err in its determination of damages against Mr. Dolet?

For the reasons set forth below, we shall affirm the judgment of the circuit court.

¹ We agree with Mr. Dolet that this is the “sole issue before this Court.” In so doing, we combined the three questions presented by Ms. Martin in her brief, which are as follows:

1. Did the circuit court err in interpreting the parties’ Divorce Agreement to indicate that Mr. Dolet did not assume responsibility for the mortgage after he left Peachtree Lane?
2. Did the circuit court err in ruling that Mr. Dolet was both authorized to sell Peachtree Lane and share the proceeds with Ms. Martin 50/50, and also vacate and deed Peachtree Lane to Ms. Martin in fee simple?
3. Did the circuit court err in determining that Mr. Dolet was entitled to a reduction of damages as a result of his breach?

FACTUAL AND PROCEDURAL BACKGROUND

Mr. Dolet and Ms. Martin were married on September 5, 1992, and they separated on September 11, 2004. On February 13, 2013, the parties entered into the Divorce Agreement, which resolved all questions relating “to their property rights, to the custody and support of their minor child, to the maintenance and support of each of the parties by the other,” and to all other obligations arising out of their marriage. With respect to Peachtree Lane, referred to as “Husband’s Home,” the Divorce Agreement provided:

The parties own as tenants by the entirety, in fee simple, the real property located at [Peachtree Lane]. Said property is subject to a lien of a mortgage. The parties agree that [Mr. Dolet] shall have sole ownership of the Husband’s home after the execution of this Agreement. [Mr. Dolet] shall be solely responsible for all principal, interest, insurance and tax payments related to Husband’s home, without any contribution from [Ms. Martin]. If [Mr. Dolet] sells Husband’s home, [Mr. Dolet] shall share any proceeds from the sale of the property 50/50 with [Ms. Martin]. Upon vacating the Husband’s Home, [Mr. Dolet] hereby agree[s] to deed the Home to [Ms. Martin] in Fee Simple.

The Divorce Agreement also addressed the parties’ two other properties. Ms. Martin was given sole ownership of real property located on Penn Manor Lane in Bowie, Maryland, referred to as “Wife’s Home.” Ms. Martin was solely responsible for principal, interest, insurance, and tax payments related to the home, with no contribution from Mr. Dolet. Ms. Martin was also given sole ownership of the parties’ timeshare located at Wyndam Resorts, which the parties had owned as tenants by the entirety in fee simple. Ms. Martin was responsible for all principal, interest, insurance, and tax payments related to the timeshare, without contribution from Mr. Dolet.

Both parties waived any claims they had at that time or in the future with regard to “alimony or support and maintenance, whether temporary, *pendente lite*, rehabilitative, indefinite or of any other nature” from the other. Moreover, both Ms. Martin’s and Mr. Dolet’s employment-related pension plan and/or IRA, respectively, would each be the “sole and exclusive property” of the holder. The parties agreed that each of them waived any claims they had or would have for the court to “assign or equitably distribute the parties’ property or to grant them a monetary award equitably dividing their marital property, except as expressly provided for in [the Divorce Agreement].”

In August 2013, Mr. Dolet vacated Peachtree Lane. As detailed below, multiple legal proceedings followed.²

This Court previously set forth the subsequent legal proceedings involving Peachtree Lane. *See Martin v. Dolet (“Martin I”)*, Nos. 2711, Sept. Term, 2018, & 832, Sept. Term, 2019 (filed June 18, 2020). We will summarize the relevant history as set forth in that opinion.

On June 8, 2016, Mr. Dolet filed a partition action in the Circuit Court for Prince George’s County, seeking either a declaratory judgment that Ms. Martin was required to refinance Peachtree Lane and be responsible for the mortgage or a sale of the property in lieu of partition. *Id.* at 4. He alleged that he vacated Peachtree Lane after Ms. Martin

² *See Martin v. Dolet (“Martin I”)*, No. 1218, Sept. Term, 2017 (filed Feb. 5, 2019); *see also Dolet v. Martin* (Contempt Action), No. 102, Sept. Term, 2018 (filed Apr. 12, 2019); *Martin v. Dolet (“Martin I”)*, Nos. 2711, Sept. Term, 2018, & 832, Sept. Term, 2019 (filed June 18, 2020).

agreed to refinance the mortgage in her name alone, but she had not done so. *Id.* A hearing scheduled for September 2016 was postponed to January 2017, pursuant to a joint request, to give Ms. Martin time to attempt to refinance the property. *Id.* On March 10, 2017, the circuit court issued a written order appointing a trustee to sell Peachtree Lane. *Id.* at 5.

On July 6, 2017, Ms. Martin moved for reconsideration of the order appointing a trustee in the partition action, arguing that she did not have notice of the January hearing and requesting that the court set aside or enjoin the order to sell Peachtree Lane. *Id.* at 6. The court denied this motion. *Id.* Ms. Martin appealed, but she did not obtain a stay, and on August 26, 2017, the trustee entered into a contract to sell Peachtree Lane. *Id.* On September 13, 2017, the trustee filed a Report of Sale regarding Peachtree Lane. *Id.* at 7.

On August 28, 2017, Ms. Martin filed a complaint for breach of contract. *Id.* She alleged that Mr. Dolet breached the Divorce Agreement by failing to deed her Peachtree Lane, and she sought damages in Count I, specific performance in Count II, and injunctive relief in Count III. *Id.*³

On January 11, 2018, in the partition action, the court held an exceptions hearing regarding the trustee's Report of Sale. *Id.* Ms. Martin argued that the court did not have

³ In addition to the partition action and the breach-of-contract claim, Ms. Martin filed a "Motion for Modification and/or Contempt" in the parties' divorce action, alleging that Mr. Dolet's failure to deed Peachtree Lane to her placed him in contempt of the Divorce Agreement. *Martin II*, slip op. at 5. She requested that the court stay the sale in the partition action, deed Peachtree Lane to her, and require Mr. Dolet to reimburse her the amount she had already paid toward the mortgage, insurance, and property taxes. *Id.* at 6. The court found Mr. Dolet in contempt for failing to deed Peachtree Lane to Ms. Martin. *Id.* at 10. It ordered that the relief would be the damages awarded, if any, in the pending breach-of-contract action. *Id.*

jurisdiction to order the sale in lieu of partition because, based on Mr. Dolet’s obligation under the Divorce Agreement to convey Peachtree Lane to her, he was not a co-owner of Peachtree Lane. *Id.* The court found that “the sale was fairly and properly made,” and it overruled the exceptions. *Id.* On January 24, 2018, the court ratified the sale. *Id.* On appeal, this Court upheld the circuit court’s decision based on the procedural posture of the case, noting that we were not addressing the claims regarding the Divorce Agreement, including whether either party breached the agreement or owed the other damages. *Id.* at 14; *see also Martin I*, slip op. at 12 n.9.

The first sale of Peachtree Lane fell through because Ms. Martin allegedly failed to vacate the property in time for settlement. *Martin II*, slip op. at 10. On May 23, 2018, the trustee filed another Report of Sale, which Ms. Martin opposed. *Id.* On June 22, 2018, the court ratified the sale. *Id.*

In the breach-of-contract action, Mr. Dolet filed a motion to dismiss on grounds of res judicata and collateral estoppel. *Id.* at 8. Ms. Martin responded that res judicata and collateral estoppel did not apply because: (1) the order to sell Peachtree Lane was not a final judgment because no damages were assessed; (2) the order was void for lack of subject matter jurisdiction because Mr. Dolet did not have an equitable interest in Peachtree Lane; (3) the order was irregular pursuant to Md. Rule 2-535(b) because it was made in response to Mr. Dolet’s oral motion at an ex parte hearing; and (4) the claims for breach of contract and specific performance were not at issue in the partition action. *Id.* at 9. On

January 26, 2018, the circuit court held a hearing. *Id.* It granted the motion to dismiss with respect to all counts except the breach-of-contract claim against Mr. Dolet. *Id.* at 9–10.

The parties then filed cross-motions for summary judgment. *Id.* at 11. Ms. Martin argued that it was undisputed that Mr. Dolet conveyed Peachtree Lane to her on August 30, 2013, so the property was not his to sell. *Id.* Mr. Dolet argued that the property was judicially sold in the partition action, and relitigating this sale was an impermissible collateral attack on a judicial action. *Id.* The court granted Mr. Dolet’s motion for summary judgment, finding that the breach-of-contract action “involve[d] the same subject matter . . . the same parties[,] and . . . the same allegations and request for monetary judgment.” *Id.* at 11–12 (alterations in original).

On appeal, we held that “the proceedings in the [p]artition [a]ction did not resolve the factual and legal issues underlying Ms. Martin’s claim for breach of contract and, therefore, . . . the circuit court erred in ruling that her claim for damages [was] precluded.” *Id.* at 21. We reversed the judgment of the circuit court on the breach-of-contract claim and remanded for further proceedings, stating that Ms. Martin

will not be precluded from asserting a claim for damages, if any, based on her contention that Mr. Dolet had a contractual obligation to transfer [Peachtree Lane] to her upon vacating it, notwithstanding her refusal to assume responsibility for liabilities associated with the property. Similarly, Mr. Dolet is not precluded from asserting that (1) he had no obligation to transfer Peachtree Lane to Ms. Martin, or (2) if he did, Ms. Martin suffered limited (or nonexistent) damages because she would have taken ownership subject to the mortgage and other payment obligations.

Id. at 30.

On June 22, 2021, trial on the breach-of-contract claim began. The court took judicial notice of the 2017 partition action.⁴ Mr. Dolet appeared at trial as a self-represented litigant. He argued that he did not receive notice of the trial, but the court found that he had been notified of the trial date on April 6, 2021.

Ms. Martin testified that, on May 9, 2013, Mr. Dolet refinanced Peachtree Lane in the amount of \$311,000 in his own name. At that point, Mr. Dolet was solely responsible for the mortgage payments.

Ms. Martin asserted that the arrangement regarding Peachtree Lane was that she would receive the house “in lieu of child support . . . not receiving any of the retirement money, giving up the survivor’s annuity,” and waiving her right to pursue alimony.⁵ Ms. Martin believed that, when she received Peachtree Lane, she would receive it in fee simple, without being responsible for the mortgage. Later, however, Mr. Dolet began to say that he did not want to pay the mortgage.

In August 2013, Mr. Dolet vacated Peachtree Lane and notified Ms. Martin via email that he had left the property. After he left, Mr. Dolet continued to make the mortgage payments on Peachtree Lane.

⁴ In this proceeding, Mr. Dolet testified that he co-owned Peachtree Lane with Ms. Martin, but he previously had transferred possession of the property to Ms. Martin, and since 2013, Ms. Martin had sole and exclusive possession of it. He testified that he and Ms. Martin agreed that Ms. Martin would pay for the mortgage and refinance it, but Ms. Martin had failed to pay the mortgage and other associated costs. Mr. Dolet had been paying some of the expenses, such as property taxes.

⁵ We note that two other properties were referenced in the Divorce Agreement, which became Ms. Martin’s property.

Ms. Martin stated that the Divorce Agreement provided that she would receive Peachtree Lane when Mr. Dolet vacated it. She initially stated that, although Mr. Dolet was supposed to issue a deed to her, he did not do so. She subsequently stated, however, that, after he vacated the property, he “deed[ed] it to [her],” and she was the sole owner.

Mr. Dolet testified that his understanding of the Divorce Agreement was that, when he was living at Peachtree Lane, he was solely responsible for the mortgage and other expenses listed in the Divorce Agreement. If he “deeded the property to her,” however, Ms. Martin would be responsible for the mortgage and other expenses. He stated that, after he moved out in August 2013, he executed a deed conveying Peachtree Lane to Ms. Martin, in which she accepted responsibility for the mortgage. Ms. Martin, however, was unable to refinance the loan.

Counsel for Ms. Martin argued that the Divorce Agreement was clear that, in consideration of Ms. Martin waiving her right to child support, alimony, and other marital assets such as Mr. Dolet’s pension, Mr. Dolet had the responsibility to pay the mortgage and other costs for Peachtree Lane, even after he deeded it to Ms. Martin. Although Mr. Dolet testified that they agreed that Ms. Martin would become responsible for the mortgage after he deeded Peachtree Lane to her, he did not produce a copy of the deed or this agreement, and their Divorce Agreement clearly stated that any modifications must be made in writing. Moreover, Ms. Martin testified that there was no agreement that she would be responsible for all payments. Although Peachtree Lane became the “full and exclusive ownership of Ms. Martin” after August 2013 when Mr. Dolet vacated it, he never

executed a deed conveying the property to her. Mr. Dolet then initiated the partition action and falsely stated that he co-owned Peachtree Lane, and the property was sold. Counsel argued that Mr. Dolet “had an obligation to hold the legal title in trust for Ms. Martin until a deed was issued,” he breached his duty under the Divorce Agreement when he initiated the partition action, and as a result, Ms. Martin lost possession and ownership of Peachtree Lane. Counsel requested damages in “the value of [Peachtree Lane] based on the price it was sold for in the partition action.”

Mr. Dolet asked the court to continue the proceedings for his counsel to get “back on the case” to argue on his behalf. The court had advised that Mr. Dolet had notice of the proceeding, and it was issuing its ruling that day.

The court began its ruling by stating that it construed the Divorce Agreement to provide for three possible scenarios: (1) Mr. Dolet stayed in Peachtree Lane and paid the mortgage; (2) he sold the property and split the proceeds with Ms. Martin; or (3) he vacated the property and executed a deed to convey it to Ms. Martin. When Mr. Dolet vacated the home, he was required “to deed the home” to Ms. Martin in fee simple. The court found that Mr. Dolet vacated the home and did not execute a deed. Accordingly, the court found that Mr. Dolet breached the Divorce Agreement.

Counsel for Ms. Martin later asked the court to clarify its ruling on who was responsible for the mortgage after Mr. Dolet vacated Peachtree Lane. The court stated that, after August 29, 2013, when Mr. Dolet vacated Peachtree Lane, he was responsible to pay the mortgage because he did not deed the property to Ms. Martin. He was responsible for

the mortgage payments until there was “a sale of the property or vacate and deed. The vacate and deed did not occur, a sale did not occur, so he would have been responsible for those costs that were incurred from 2013 until the sale had taken place.” Until either one of the two conditions occurred, Mr. Dolet was responsible for the mortgage, insurance, and taxes on Peachtree Lane.

With regard to damages, the court reviewed the Report of Sale and noted that the trustee sold Peachtree Lane for \$400,145. Mr. Dolet paid \$1,500 for reimbursement of the trustee’s payment, and after the payoff to the mortgage, \$53,040.13 was distributed in equal portions to Mr. Dolet and Ms. Martin. Mr. Dolet received \$27,270.06, which included reimbursement of his \$1,500 payment, and Ms. Martin received \$25,770.06.

The court stated that it could not “speculate or guess” what the compensatory damages were, and it could not “make any estimation that ha[d] not been proven by [Ms. Martin] by reasonable certainty as to what if any damages have been incurred.” The Divorce Agreement allowed Mr. Dolet to leave Peachtree Lane and convey it to Ms. Martin in fee simple, and it also allowed him to sell the property and split the profits, which was what happened. There was a period of time from 2013 to 2018 where no payments were made on the mortgage, but there was no evidence of the value of those payments that should have been made, and it just “got encompassed into the mortgage that was due and owing.” The court noted that there was a mortgage of \$297,048.83 on Peachtree Lane, so Ms. Martin would not have received Peachtree Lane free and clear of the mortgage. And she would have had to pay other fees as the purchaser.

The \$1,500 that Mr. Dolet paid to secure the trustee, however, as well as the auditor's fee and the advertising expenses, would not have been incurred if Mr. Dolet had executed a deed when he vacated the home. Recordation fees, transfer fees, and county taxes, however, still would have been incurred. The court concluded that it "would issue an order as to the compensatory damages for those additional amounts because [Ms. Martin] was already paid half of what the property was sold for. Anything above that would have been speculation."

The court then noted that the Divorce Agreement provided that, in the event of a breach, the breaching party was responsible for "reasonable attorney's fees, costs and expenses incurred by the other party as a result of said breach." The court requested that counsel for Ms. Martin submit a report of his fees, costs, and expenses incurred as a result of the breach-of-contract action.

In its written order, the court awarded Ms. Martin \$9,029.45 in compensatory damages, \$17,600 in attorney's fees, and \$625 in costs. The compensatory damages consisted of the following: \$18.45 for the county tax refund; \$1,500 for the trustee's initial payment; \$400 for the auditor's fee; \$90 for the advertising costs; \$750 for the appraisal fee; and \$6,271 for the trustee's fee.

This appeal followed.

STANDARD OF REVIEW

The standard of review that we apply is as follows:

When an action has been tried without a jury, we "review the trial court's decision on both the law and the evidence, upholding factual findings

unless clearly erroneous, but subjecting its legal conclusions to *de novo* review.” *Nationwide Mut. Ins. Co. v. Regency Furniture, Inc.*, 183 Md. App. 710, 722 (2009) (citing *Jackson v. 2109 Brandywine, LLC*, 180 Md. App. 535, 567 (2008)); *see also* Md. Rule 8-131(c). “[U]nder 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.” *Goss v. C.A.N. Wildlife Trust, Inc.*, 157 Md. App. 447, 456 (2004) (quoting *Lemley v. Lemley*, 109 Md. App. 620, 628 (1996)). Rather, “[o]ur task is limited to deciding whether the circuit court’s factual findings were supported by ‘substantial evidence’ in the record.” *Liberty Mut. Ins. Co. v. Md. Auto. Ins. Fund*, 154 Md. App. 604, 609 (2004) (citing *GMC v. Schmitz*, 362 Md. 229, 234 (2001)). “If there is any competent and material evidence to support the factual findings of the trial court, those findings cannot be held to be clearly erroneous.” *L.W. Wolfe Enters. v. Md. Nat’l Golf, L.P.*, 165 Md. App. 339, 343 (2005) (quoting *YIVO Inst. for Jewish Research v. Zaleski*, 386 Md. 654, 663 (2005)).

“Although the factual determinations of the circuit court are afforded significant deference on review, its legal determinations are not.” [*Goss*, 157 Md. App. at 456] “The interpretation of a contract is a legal question subject to *de novo* review.” [*Regency Furniture*, 183 Md. App. at 722] (citations omitted). “Maryland follows the objective theory of contract interpretation,” which “focuses on the written text: the construing court’s task is to determine from the language of the agreement itself what a reasonable person in the position of the parties would have meant at the time it was effectuated.” *Id.* (citations and internal quotation marks omitted).

Thomas v. Cap. Med. Mgmt. Assocs., LLC, 189 Md. App. 439, 453–54 (2009) (parallel citations omitted).

DISCUSSION

As indicated, the provision in the Divorce Agreement regarding Peachtree Lane has generated numerous legal proceedings, and many of the claims in those proceedings are reiterated in this appeal. Thus, we begin our discussion by making clear the limited scope of our review in this appeal.

In *Martin II*, slip op. at 30, this Court held that Ms. Martin was precluded from attacking in further proceedings the propriety of the sale in lieu of partition of Peachtree Lane. She could, however, argue that “Mr. Dolet had a contractual obligation to transfer the property to her upon vacating it, notwithstanding her refusal to assume responsibility for liabilities associated with the property.” *Id.* Mr. Dolet, in turn, could argue: “(1) he had no obligation to transfer Peachtree Lane to Ms. Martin, or (2) if he did, Ms. Martin suffered limited (or nonexistent) damages because she would have taken ownership subject to the mortgage and other payment obligations.” *Id.*

In assessing this issue on remand, the circuit court looked to the language of the contractual provision. As indicated, the provision stated:

The parties own as tenants by the entirety, in fee simple, the real property located at [Peachtree Lane]. Said property is subject to a lien of a mortgage. The parties agree that [Mr. Dolet] shall have sole ownership of the Husband’s home after the execution of this Agreement. [Mr. Dolet] shall be solely responsible for all principal, interest, insurance and tax payments related to Husband’s home, without any contribution from [Ms. Martin]. If [Mr. Dolet] sells Husband’s Home, [Mr. Dolet] shall share any proceeds from the sale of the property 50/50 with [Ms. Martin]. Upon vacating the Husband’s Home, [Mr. Dolet] hereby agree[s] to deed the Home to the [Ms. Martin] in Fee Simple.

The court determined that Mr. Dolet breached the Divorce Agreement when he failed to execute a deed conveying Peachtree Lane to Ms. Martin after he vacated the property in August 2013. The court awarded damages to Ms. Martin in the amount of \$9,029.45, as well as \$18,225 in attorney’s fees and costs.

Mr. Dolet asserts in his brief that he “should never have been found to be in breach in the first place” because “[i]t would have been impossible for Mr. Dolet to deed Peachtree

Lane to Ms. Martin without the existing lien being satisfied,” and Ms. Martin had to either refinance the mortgage or pay it off in full, neither of which she was able to do. Mr. Dolet, however, did not file a notice of appeal challenging the court’s finding that he breached the contract. Accordingly, that issue is not before us. *See Kunda v. Morse*, 229 Md. App. 295, 302 n.4 (2016)) (quoting *Maxwell v. Ingerman*, 107 Md. App. 677, 681 (1996) (“[I]f a timely cross-appeal is not filed, we will ordinarily only review those issues properly raised by the appellant[.]”). The only issue before us is Ms. Martin’s challenge to the court’s ruling regarding the appropriate amount of damages to be awarded for Mr. Dolet’s breach of contract.

Ms. Martin contends that the circuit court’s determination of damages was “flawed in three fundamental respects.” Her first two arguments involve an interpretation of the Divorce Agreement. Ms. Martin contends that the circuit court erred in interpreting the Divorce Agreement: (1) in a way contrary to “the plain meaning and intention of the parties” that Mr. Dolet assumed sole responsibility for the mortgage on Peachtree Lane, regardless if he sold or vacated it; and (2) to permit Mr. Dolet to sell Peachtree Lane after he vacated the property and granted Ms. Martin possession. Ms. Martin’s third contention is that the court erred in not awarding damages in the amount of \$410,000, the full market value of the property, and instead deducted “the mortgage and closing costs in the partition action from the full sale price of Peachtree Lane.”

We will consider each of these arguments, in turn.

A.

Contract Interpretation

The parties disagree regarding who was responsible for paying the principal, interest, insurance, and property taxes for Peachtree Lane. The Divorce Agreement clearly stated that, while Mr. Dolet lived there, he was responsible for the payments. It also clearly stated that, if the property was sold, the proceeds would be split evenly. The dispute arises in the event that Mr. Dolet vacated Peachtree Lane. Ms. Martin contends that, in that situation, she would take ownership of the property, clear of any debt, and Mr. Dolet would have no interest in the property, but he would remain responsible, in perpetuity, for the mortgage, taxes, and insurance. She contends that this provision of the Divorce Agreement was in consideration of her waiver of claims for alimony, retirement benefits, and a monetary award.

Mr. Dolet argues that the reference to his sole responsibility for the payments was predicated on him having sole ownership of Peachtree Lane. If he was going to stop living there, he had two options: (1) sell the property to a third party; or (2) convey it to Ms. Martin, and he asserts that neither of those options referenced Mr. Dolet remaining responsible for the mortgage on the property. He contends that Ms. Martin's theory, i.e., that he "had the option to either sell the home and leave with thousands of dollars in his pocket or deed the property to her and obligate himself to hundreds of thousands of dollars of debt, not including payment of the real estate taxes and insurance in perpetuity," defies common sense. With respect to her argument that she waived claims to retirement benefits

for him to pay the mortgage even if he vacated the property, Mr. Dolet asserts that there is no evidence supporting that claim, and it “defies belief” because she would receive only half of the proceeds if he sold the property.

Both parties contend that the Divorce Agreement is unambiguous, but they reach different conclusions as to its meaning. In interpreting a contract, we apply the objective theory of contract interpretation, the primary goal of which is to “ascertain the intent of the parties in entering the agreement and to interpret ‘the contract in a manner consistent with [that] intent.’” *Credible Behav. Health, Inc. v. Johnson*, 466 Md. 380, 393 (2019) (quoting *Ocean Petroleum Co., Inc. v. Yanek*, 416 Md. 74, 88 (2010)). Pursuant to this principle, “unless a contract’s language is ambiguous, we give effect to that language as written without concern for the subjective intent of the parties at the time of formation.” *Ocean Petroleum Co.*, 416 Md. at 86. We restrict our inquiry to “‘the four corners of the agreement’” *id.* (quoting *Cochran v. Norkunas*, 398 Md. 1, 17 (2007)), and “‘ascribe to the contract’s language its ‘customary, ordinary, and accepted meaning.’” *Id.* (quoting *Fister v. Allstate Life Ins. Co.*, 366 Md. 201, 210 (2001)). When language in a contract is unambiguous, the inquiry “is based on what a reasonable person in the position of the parties would have understood the language to mean and not ‘the subjective intent of the parties at the time of formation.’” *Credible Behav. Health*, 466 Md. at 393 (quoting *Ocean Petroleum Co.*, 416 Md. at 86).

“The language of a contract is only ambiguous if, when viewed from [a] reasonable person perspective, that language is susceptible to more than one meaning.” *Landaverde*

v. Navarro, 238 Md. App. 224, 244 (quoting *Ocean Petroleum Co.*, 416 Md. at 87), *cert. denied*, 461 Md. 502 (2018). “The first step is to ‘[d]etermine from the language of the agreement itself what a reasonable person would have meant at the time it was effectuated,’ and if ‘the language of the contract is plain and unambiguous there is no room for construction.’” *Dumbarton Improvement Ass’n Inc. v. Druid Ridge Cemetery Co.*, 434 Md. 37, 53–54 (2013) (quoting *Calomiris v. Woods*, 353 Md. 425, 436 (1999)).

It is only where the contract is ambiguous that “‘the narrow bounds of the objective approach give way,’ and the court may consider extrinsic evidence to ascertain the mutual intent of the parties.” *Impac Mortg. Holdings, Inc. v. Timm*, 474 Md. 495, 507 (2021) (quoting *Credible Behav. Health*, 466 Md. at 394). In so doing, “‘the court must consider any extrinsic evidence which sheds light on the intentions of the parties at the time of the execution of the contract.’” *Cnty. Comm’rs of Charles Cnty. v. St. Charles Assocs. Ltd. P’ship*, 366 Md. 426, 445 (2001) (quoting *Heat & Power Corp. v. Air Prods. & Chems., Inc.*, 320 Md. 584, 596–97 (1990)). “The interpretation of a contract, including the determination of whether a contract is ambiguous, is a question of law,” which we review *de novo*. *Sy-Lene of Washington, Inc. v. Starwood Urb. Retail II, LLC*, 376 Md. 157, 163 (2003).

Here, we conclude that the Divorce Agreement is not ambiguous. The Divorce Agreement listed three options for Peachtree Lane: (1) Mr. Dolet could live in Peachtree Lane and be solely responsible for the mortgage; (2) Mr. Dolet could sell Peachtree Lane and split the profits with Ms. Martin; or (3) Mr. Dolet could vacate Peachtree Lane and

deed it to Ms. Martin. Nothing in the third option suggests that, once Ms. Martin became the owner of the property, Mr. Dolet would continue to be obligated to pay the mortgage. And reading the contract as a whole, it would not be consistent with common sense to conclude that this paragraph was intended to give Mr. Dolet the option to sell the property and receive half the proceeds or give the property to Ms. Martin and continue to be obligated to pay the mortgage. Pursuant to the plain terms of the Divorce Agreement, he was obligated to pay the mortgage only if he lived there.

With respect to Ms. Martin's contention that this provision was made in consideration of Ms. Martin waiving any claims for alimony and retirement benefits, the Divorce Agreement does not indicate that anywhere. Rather, the agreement indicates that the parties' property was divided, with Mr. Dolet getting Peachtree Lane and Ms. Martin receiving the other two properties, and both parties waived any right to "alimony or support and maintenance, whether temporary, *pendente lite*, rehabilitative, indefinite or of any other nature," and the other party's "employment-related pension plan and/or IRA."

The circuit court properly construed the Divorce Agreement to require Mr. Dolet to pay the mortgage only until he sold the property or vacated it and conveyed it by deed to Ms. Martin.

Ms. Martin next contends that the court erred in construing the Divorce Agreement to give Mr. Dolet the right to sell Peachtree Lane and share the proceeds 50/50 "after he vacated the home and granted Ms. Martin exclusive use and possession." The court did not construe the Divorce Agreement in this way. As indicated, the court's ruling was that,

when Mr. Dolet vacated the property, he was required “to deed the home” to Ms. Martin in fee simple, and his failure to do so constituted a breach of the Divorce Agreement. The court then proceeded to assess damages based on this breach of contract.

B.

Calculation of Damages

Ms. Martin contends that the court erred in awarding damages in the amount of \$9,029.45. She asserts that she should have been “placed in the position she would have occupied if the contract had been performed,” and therefore, she was entitled to the full fair market value of Peachtree Lane, i.e., \$410,000. She asserts that the court erred in reducing damages by the mortgage and closing costs where Mr. Dolet never asserted a legal claim against her, and therefore, he was not entitled to a reduction by either “set-off or recoupment.”

“Damages for breach of contract ‘seek to vindicate the promisee’s expectation interest.’” *Hall v. Lovell Regency Homes Ltd. P’ship*, 121 Md. App. 1, 13 (quoting *Andrulis v. Levin Constr. Corp.*, 331 Md. 354, 374 (1993)), *cert. denied*, 350 Md. 487 (1998). In other words, “[d]amages for breach of a contract ordinarily are that sum which would place the plaintiff in as good a position as that in which the plaintiff would have been, had the contract been performed.” *Beard v. S/E Joint Venture*, 321 Md. 126, 133 (1990). As the Court of Appeals has explained:

[A] party injured by a breach of contract has a right to damages based on his expectation interest as measured by (a) the loss in the value to him of the other party’s performance caused by its failure or deficiency, plus (b) any

other loss, including incidental or consequential loss, caused by the breach, less (c) any cost or other loss that he has avoided by not having to perform.

CR-RSC Tower I, LLC v. RSC Tower I, LLC, 429 Md. 387, 407 (2012) (quoting *David Sloane, Inc. v. Stanley G. House & Assocs., Inc.*, 311 Md. 36, 42 (1987) (citing Restatement (Second) of Contracts § 347 (Am. L. Inst. 1981))).

In a breach-of-contract action, the plaintiff is required to prove damages with reasonable certainty. *Hoang v. Hewitt Ave. Assocs., LLC*, 177 Md. App. 562, 594 (2007). Reasonable certainty “means the likelihood of the damages being incurred as a consequence of the breach, and their probable amount.” *Id.* at 595. Therefore, “[l]osses that are speculative, hypothetical, remote or contingent either in eventuality or amount will not qualify as reasonably certain and are not recoverable as contract damages.” *Adcor Indus., Inc. v. Beretta U.S.A. Corp.*, 250 Md. App. 135, 154 (quoting *Hoang*, 177 Md. App. at 595) (cleaned up), *cert. denied*, 475 Md. 678 (2021).

Here, the court found that Peachtree Lane was sold for \$400,145. In assessing the proper amount of damages due to Mr. Dolet not executing a deed conveying the property to her after he vacated it, the court noted that, at the time of the sale, there was a mortgage of \$297,048.83, and Ms. Martin would not have received Peachtree Lane “free and clear of any mortgage.” Although it appeared that there was a period of time between 2013 and 2018 during which mortgage payments were not made, the court stated that it did not “know what the dollar amount of those payments” was, and it could not speculate on that or make “any estimation that ha[d] not been proven” by Ms. Martin with reasonable certainty. The court noted that, if the property had been conveyed to Ms. Martin, instead of being sold to

a third party, costs in addition to the mortgage would have been incurred, including the “title closing and release fees,” HOA documents and costs, recordation fees, and county taxes. The court also noted that Ms. Martin had already received \$25,770.06 for her half of the proceeds of the sale.

Based on these factual findings, the court properly rejected Ms. Martin’s claim that she was entitled to \$410,000, the price for which Peachtree Lane was sold. And because Ms. Martin did not prove her damages with reasonable certainty, the court properly declined to speculate. It did, however, look to costs that would not have been incurred if Mr. Dolet had conveyed the property to her, costs reflected on the Report of Sale. Those costs, including the trustee’s fee, the auditor’s fee, and the advertising costs, amounted to \$9,029.45, which was the amount of damages the court awarded. On this record, we cannot conclude that the court erred or abused its discretion in its award of damages to Ms. Martin.

**JUDGMENT OF THE CIRCUIT COURT
FOR PRINCE GEORGE’S COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**