

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 1317

September Term, 2024

JJZ PROPERTIES, LLC, *et al.*

v.

ANTHONY J. MARIANI, *et al.*

Wells, C.J.,
Arthur,
Getty, Joseph M.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Getty, J.

Filed: March 26, 2026

*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 Rule 1-104(a)(2)(B).

Munther Salem (“Salem”), Appellant/Cross-Appellee, and Anthony Mariani (“Mariani”), Appellee/Cross-Appellant, are both businessmen operating in Ocean City, Maryland. In 2021, they began negotiating an ill-fated business deal wherein Salem attempted to purchase a number of business entities from Mariani. At that time, Salem was acting as an agent of another business entity, JJZ Properties, LLC (“JJZ”), Appellant/Cross-Appellee, which was owned by Salem’s wife and father. The parties executed three Business Purchase Agreements (collectively, “Agreements”) wherein JJZ purchased several businesses and their assets from Mariani. Thereafter, JJZ, through Salem, began operating the businesses. Several months later, an agent of Mariani’s claimed that the Agreements were invalid, and this lawsuit ensued. After a year of litigation, the Circuit Court for Worcester County invalidated the Agreements and awarded each party damages based on unjust enrichment and trover and conversion.

JJZ and Salem have presented four questions for our review, which we have consolidated into two:¹

¹ The questions as presented by JJZ and Salem are:

1. Did the trial court err as a matter of law when it found the Business Purchase Agreements at issue in this case were unenforceable because Mr. Salem could not sign on behalf of JJZ?
2. Did the trial court commit clear error as a matter of law when it found Appellants had failed to demonstrate they were “ready and able” to tender payment?
3. Did the trial court commit clear error when it ruled the Business Purchase Agreements were unenforceable due to its interpretation of various contract provisions?
4. Did the trial court commit clear error when it found there was no evidence Mr. Mariani intended to deceive Appellants when he failed to disclose the Real Estate Entities had more than \$150,000.00 in outstanding debts prior to signing the Business Purchase Agreements?

1. Did the trial court err in finding that the three Agreements were unenforceable?
2. Did the trial court err in finding that Mariani did not intend to deceive JJZ and Salem by failing to disclose the businesses' debts?

Mariani then filed his own cross-appeal presenting two additional questions, which we have rephrased as follows:²

1. Was there sufficient evidence to support the trial court's finding that JJZ and Salem suffered \$39,480.29 in damages?
2. Did the circuit court err by failing to award damages for Mariani's trespass claim?

As we will explain, we conclude that the trial court did not err in finding that the Agreements were unenforceable, that Mariani did not intend to deceive JJZ, or that JJZ suffered \$39,480.29 in damages. The court did err, however, in failing to award damages to Mariani for Salem's trespass on Mariani's property. Accordingly, we shall remand to the Circuit Court for Worcester County to amend its judgment to include a damages award for trespass.

BACKGROUND

In 2021, Salem, acting on behalf of JJZ, and Mariani began negotiating the sale of various limited liability companies ("LLCs") then owned by Mariani. These negotiations culminated in the three Agreements: Agreement A, dated November 5, 2021; Agreement

² Mariani's verbatim additional questions presented were:

1. Did the Circuit Court err by ruling that JJZ Properties LLC established sufficient evidence of damages in the amount of \$39,480.29?
2. Did the Circuit Court err by not awarding damages in Appellee's favor for Mr. Salem's trespass?

B, also dated November 5, 2021; and Agreement C, dated November 15, 2021.³ These Agreements were not prepared by an attorney; rather, they were drafted by Salem himself based upon business purchase agreements which he found online. Each Agreement was then purportedly executed by Mariani via an e-signature.⁴ Agreement A was e-signed on November 12, 2021, and Agreements B and C were both e-signed on December 21, 2021.

Although each individual Agreement related to different LLCs, all three contained substantially the same terms: JJZ agreed to purchase all Mariani's rights, title, and interests in the named companies and their assets, including, notably, any real property,⁵ and to assume all the companies' liabilities. In relevant part, the Agreements provided:

[T]he Seller agrees to sell, assign, transfer, convey and deliver to the Buyer, and the Buyer agrees to purchase and acquire from the Seller all rights, title and interests of the Seller in and to the Business, including the following assets:

³ Each agreement concerned different LLCs. Agreement A was for the sale of Dad & Daughters LLC, Nunu & GDaughters LLC, and T D LLC; Agreement B was for the sale of Bella Luna LLC and Poo Bear LLC; and Agreement C was for the sale of SFW102 LLC, EmilyRose LLC, and ElizabethMarie LLC.

⁴ The specific program used to obtain Mariani's e-signature was Adobe Sign. The final page of each Agreement includes an Adobe Sign audit report that provides date and time stamps showing the specific email address to which the document was sent, when the email was opened, and when the document was e-signed. The authenticity of Mariani's signature on each of the Agreements was disputed in the court below, but that issue is not before us on this appeal.

⁵ The LLCs sold in the Agreements owned numerous parcels of commercial real property at the following addresses: 8206 Coastal Highway, Ocean City, MD 21842; 8300 Coastal Highway, Ocean City, MD 21842; 11046 Grays Corner Road, Berlin, MD 21811; 103 58th Street, Ocean City, MD 21842; 1410 Jacqueline Street, Ocean City, MD 21842; 204 South Heron Drive, Ocean City, MD 21842; 309 Seabay Lane, #18, Ocean City, MD 21842; 205 Philadelphia Avenue, Ocean City, MD 21842; 207 Philadelphia Avenue, Ocean City, MD 21842; 209 Philadelphia Avenue, Ocean City, MD 21842; and 211 Philadelphia Avenue, Ocean City, MD 21842.

(a) Contracts and Other Agreement. All contracts and other agreements, including leases, supply contracts, purchase orders and other third-party contracts used in the operation of the Business.

(c) Real Property. All real property, including all buildings, fixtures, structures, signage and improvements, owned by the Business.

Each of the three agreements specified a different purchase price—Agreement A’s purchase price was \$2,650,000, and Agreement B’s and Agreement C’s purchase prices were each \$2,500,000—but all provided that the purchase price was payable as follows:

(a) \$250,000.00 at or before the signing of this Agreement, which sum shall be applied to the Purchase Price at the time of closing hereunder; and

(b) Remaining balance at closing are to be financed on a fee simple schedule at a rate of 5% interest over 20 years, 240 Months. . . .

Agreements A and B provided that remaining balance payments would begin on March 1, 2022, and that an amortization schedule would be provided by the seller after closing but before March 1, 2022. Agreement C contained the same provision but set the date as April 1, 2022.

All three Agreements called for a closing date of November 15, 2021, at which time “Seller shall deliver possession of the tangible property and all assets included in the sale to the Buyer and all other instruments and documents necessary to transfer the Business and assets to Buyer.” Taking the three Agreements together, this transaction concerned the sale of eight LLCs which collectively owned eleven parcels of real property, for a total purchase price of \$7,650,000.

To date, no closing has taken place, and neither Salem nor JJZ has paid any amount towards the purchase price. Notwithstanding the foregoing, by late 2021, Mariani had provided keys to all the subject properties owned by the LLCs to Salem and Salem had begun using one of the properties, 8206 Coastal Highway in Ocean City, as an office and business address. Starting in early 2022, JJZ, through Salem, began repairing the properties, paying utility bills, signing leases with the properties' existing tenants, and collecting rent from some of those tenants. This arrangement continued until September of 2022, when Mariani's nephew, Johann Bowman, contacted Salem requesting the Agreements and providing payment instructions for the outstanding down payments. Salem and Mr. Bowman communicated throughout September and October of 2022, at which point Mr. Bowman asserted that the Agreements were void and demanded that Salem vacate the office at 8206 Coastal Highway.

On February 1, 2023, JJZ filed suit against Mariani and the subject LLCs in the Circuit Court for Worcester County. JJZ's complaint sought specific performance of all three Agreements and alleged breach of contract, detrimental reliance, fraudulent misrepresentation, tortious interference of contract, tortious interference with business relations, and unjust enrichment. Mariani answered on February 13, 2023, denying virtually all of JJZ's allegations. Also on February 13, 2023, Mariani filed a counterclaim against JJZ alleging breach of contract and filed a third-party complaint against Salem individually for unjust enrichment, trespass to land, and trover and conversion.

Also in February 2023, Mr. Bowman sent eviction notices to several of the properties' tenants. Thereafter, JJZ moved for a Temporary Restraining Order and

Preliminary Injunction, seeking to maintain the *status quo* wherein the tenants could continue to occupy the properties and maintain their business relationships with JJZ. The circuit court granted JJZ's request for a Temporary Restraining Order on March 22, 2023.

In August 2023, the parties appeared before the circuit court for a hearing on the parties' cross-motions for preliminary injunctions. JJZ again sought to maintain the *status quo* and Mariani sought severance of all of JJZ's interrelations with the LLCs, the properties, and their tenants. The court heard testimony from Salem, Mr. Bowman, and several of the properties' tenants.

Following the injunction hearing, the parties cross-moved for summary judgment. The circuit court denied both motions on January 25, 2024, and proceeded to a trial on the merits on January 29, 2024. The witnesses at trial again included Salem, Mr. Bowman, and two of the tenants who testified at the injunction hearing. Salem and JJZ argued in closing that the court should direct the parties to perform the Agreements—thereby allowing JJZ to maintain ownership of the LLCs and control of the properties—and order Mariani to reimburse JJZ for any rents he collected from the properties' tenants following the execution of the Agreements. Conversely, Mariani argued that the court should enter a declaratory judgment invalidating the Agreements, order JJZ to reimburse any rents it collected since the execution of the Agreements, and order Salem to immediately vacate the 8206 Coastal Highway property.

The circuit court entered its final order and Memorandum Opinion on July 30, 2024. In its opinion, the court found firstly that Salem had no authority to act on behalf of JJZ and bind JJZ to a contract, relying on Salem's testimony that he had no ownership interest

in JJZ. Without this authority, the court found, the three Agreements could not be enforced, and therefore JJZ’s claim for specific performance and the parties’ respective claims for breach of contract could not be sustained. The court further found that, even if an enforceable contract existed, JJZ would still not be entitled to any relief because it failed to perform its duties under the Agreements by failing to make any payments.

The court also found that JJZ’s claim for detrimental reliance could not be sustained because the Agreements were too vague to constitute a “clear and definite promise.” Similarly, the court found no evidence of fraudulent misrepresentation by Mariani. As to JJZ’s unjust enrichment claim, however, the court found that JJZ was entitled to reimbursement for costs it incurred while improving and maintaining the properties because Mariani would otherwise have been responsible for those costs as the properties’ rightful owner. Accordingly, the court entered judgment in JJZ’s favor on that claim in the amount of \$39,480.29.

Regarding Mariani’s claims against Salem individually, the court found that Salem occupied the 8206 Coastal Highway property without proper authorization, and therefore had trespassed, but the court did not award any damages. As to trover and conversion, the court found that Salem had collected \$226,578.33 in rent from the properties’ tenants that should have gone to Mariani, and thus awarded judgment in Mariani’s favor in that amount. The court enjoined JJZ and Salem from conducting any further business through the disputed LLCs and ordered them to immediately vacate all properties.

JJZ and Salem timely noted their appeal on August 29, 2024. Mariani noted his cross-appeal on September 9, 2024.

STANDARD OF REVIEW

“An appellate court reviews a trial court’s factual findings for clear error, and reviews the trial court’s legal conclusions *de novo*.” *Dynacorp Ltd. v. Aramtel Ltd.*, 208 Md. App. 403, 451 (2012). “A trial court’s factual findings are not clearly erroneous as long as they are supported by any competent material evidence in the record.” *Saxon Mortg. Servs., Inc. v. Harrison*, 186 Md. App. 228, 262 (2009).

DISCUSSION

ENFORCEABILITY OF THE AGREEMENTS

The trial court here provided three rationales for declining to enforce the Agreements between JJZ and Mariani. First, the court found that “Salem did not have the authority to bind JJZ, and as such, the three Agreements cannot be enforced, and are rendered void.” The court based this determination on testimony by Salem that he had no ownership interest in JJZ and that there was no other evidence, besides Salem’s own assertion, that he was authorized to act on JJZ’s behalf.

Second, the court held that, even if an enforceable contract existed, JJZ was not entitled to relief on its breach of contract or specific performance claims because it failed to demonstrate “that it has performed its duties, and is ready, willing, and able to follow through with the deal.” The parties did not dispute that JJZ has not paid anything towards the sale price of any of the Agreements, and the court found that JJZ and Salem lacked the liquid funds to make the required down payment or any other payments. The court held that this failure to perform “entirely excused” Mariani’s obligations under the Agreements.

Third, the court found that JJZ could not prevail on a claim of detrimental reliance because there was “no clear and definite promise between the parties on the face of the Agreements.” Moreover, even if there had been such a promise, JJZ’s and Salem’s reliance on that promise was unreasonable because JJZ began executing lease agreements with tenants before Agreement C was signed and before there was a closing on any of the Agreements.

JJZ and Salem challenge the court’s determinations on all three of these issues. However, since we agree with the trial court that JJZ is not entitled to relief on its contract claims because of its failure to perform, we will affirm on that basis and do not reach the other two rationales.

“Specific performance is an extraordinary remedy for breach of contract. The party seeking specific performance has the burden of proving its entitlement to such relief.” *Md. Indoor Play, LLC v. Snowden Inv. LLC*, 491 Md. 186, 215 (2025) (citations omitted). A party seeking specific performance must generally be able to show that he or she has fully performed his or her obligations under the contract, or, at least, that he or she is ready, willing, and able to perform. *See Clayton v. Proutt*, 227 Md. 198, 203 (1961) (“There can be little doubt that one seeking the execution of a contract must, as a general rule, be able to show that he has fully, not partially, performed everything required to be done on his part, or, under some circumstances, that he is ready and desirous to comply with the contract on his part, and has the ability to perform it.”); *see also Shapiro v. Hyperheal Hyperbarics, Inc.*, 263 Md. App. 424, 464 (2024), *aff’d*, 491 Md. 432 (2025); *Cattail Assocs., Inc. v. Sass*, 170 Md. App. 474, 499 (2006).

However, “either party to a contract may waive any of the provisions made for his benefit.” *Twining v. Nat’l Mortg. Corp.*, 268 Md. 549, 555 (1973). Such a waiver “must be clearly established and will not be inferred from equivocal acts or language. Whether there has been a waiver of a contractual right involves a matter of intent that ordinarily turns on the factual circumstances of each case.” *Cattail*, 170 Md. App. at 499–500 (internal quotations omitted).

Here, JJZ failed to demonstrate that it performed any of its obligations under the Agreements, or that it was ready, willing, and able to perform. Undisputably, each Agreement required a \$250,000 down payment due at signing, and regular monthly payments made thereafter. During his testimony at the injunction hearing, Salem conceded that the down payments had not been made:

Q: And the agreement provides for a deposit of \$250,000 at or before the signing of the agreement, correct?

A: Yes.

Q: That didn’t happen.

A: No.

Q: And as we sit here today, August 21st, 2023, it still hasn’t happened?

A: Nope.

Q: And you haven’t put that money in escrow anywhere, right?

A: It was never requested, no.

Q: But you haven’t.

A: I haven’t.

As of the trial in January, that circumstance had not changed:

Q: And each agreement requires in paragraph No. 3 that \$250,000 would be paid at or before the signing of the agreement, correct?

A: That’s correct.

Q: And you drafted that?

A: I did.

Q: You drafted every word of it, correct?

A: I did.

Q: Referring to paragraph three. And here we are January, late January 2024, even though the agreement you drafted said it would be paid at or before, that hasn’t been paid, correct?

A: To date it has not been paid.

The Circuit Court found that JJZ’s failure to tender the required down payments “entirely excused” any obligations that Mariani had under the Agreements. We agree. *See Maslow v. Vanguri*, 168 Md. App. 298, 323 (2006) (“In general, ‘[w]here . . . there has been a material breach of a contract by one party, the other party has a right to rescind it.”); *see also Wash. Homes, Inc. v. Interstate Land Dev. Co., Inc.*, 281 Md. 712, 728 (1978); *Traylor v. Grafton*, 273 Md. 649, 687 (1975) (“If one of the parties to a contract is guilty of a material breach the other may rescind.”).

Moreover, despite Salem’s assertion that he could and would make the down payments should JJZ prevail on its claim for specific performance, the court found that there was no evidence that he had the liquid funds to do so. We discern no clear error in that finding. In an affidavit, Salem attested that he “maintained access to and control over cash and/or liquid securities in amounts exceeding seven hundred fifty thousand and

00/100 Dollar (\$750,000.00) at all relevant times, including throughout this litigation.” However, he presented no further evidence corroborating that assertion and testified that he has not placed any amounts in escrow for these payments.

There is no evidence in the record indicating that Mariani waived his right to the down payments; but, in defense of its failure to perform, JJZ relies on the prevention doctrine. “[T]he prevention doctrine applies when one party prevents another party from performing under the contract.” *WSC/2005 LLC v. Trio Ventures Assocs.*, 460 Md. 244, 267 (2018). According to the doctrine, “if one party to a contract hinders, prevents or makes impossible performance by the other party, the latter’s failure to perform will be excused.” *Id.* (quotations omitted). JJZ claims that its failure to perform should be excused here because Mariani delayed in providing Salem with payment instructions. We find this claim to be unavailing.

During his testimony, Salem explained that he attempted to make payments, but blamed Mariani for being ineffectual.

Q: My question was, did you attempt to make down payments?

A: We attempted to make down payments. So there were—and that’s where I was going with the attorneys, that’s why. There was one attorney that we worked with jointly. There was one attorney that was referenced by Mr. Mariani who he had worked with in the past. I had never, but I’ve had conversations with. Just never as my legal counsel.

There was a bank mentioned, but never a solid, here’s where you need to make the payment. Here’s the name you should put on a check. Here is the payment instruction. Oh, and here’s your payment schedule which was—never came to fruition as well.

There was [sic] loose ends at the end of these dealings, and those loose ends were promised, and it dragged on and one thing led to another.

I was more so assisting in the majority of this in holding hands which at some point, you know, I was willing to do at the beginning, but as things dragged on, it just became more of, I don't want to be responsible for both, you know, calling [Mariani's] bank, which I would never do, nor would I imagine myself having to do. If I'm going to issue a payment as a purchase, it is the seller's responsibility to know where they want to place that money and to who[m] they want to give it to.

What JJZ's prevention argument refuses to acknowledge, however, is that Salem was given explicit payment instructions by Mr. Bowman, after which he still refused to tender the down payments. Salem testified to the same during trial:

Q: Do you agree, sir, that at some point in time you were provided with wire instructions where you could have wired the \$750,000 into Mr. Mariani's UBS account, correct?

A: Yes. Well, I don't know which account that was referring to. UBS was mentioned early off after the—that was one of the choice banks that he was going to request that I make the deposit. The wire instructions were provided by Johann Bowman very late in the game, and I'm not sure which bank that was to jog my memory.

Q: But you elected not to—we know that you didn't pay it, right?

A: Until this date we haven't closed on payment or exchanged any monies.

Salem then explained that his failure to pay after receiving the wire instructions was due to a general distrust of Mr. Bowman. That distrust, however, is insufficient to excuse JJZ's contractual obligation to tender the down payments. JJZ cannot be said to have been materially prevented from making the payments when it had direct instructions on how to do so. Moreover, to the extent that Mariani did cause any delay, nothing in the record demonstrates that JJZ was prevented from holding the amounts in escrow until it received further instructions. Accordingly, the prevention doctrine does not apply, and JJZ's own failure to perform under the Agreements bars its claim for specific performance.

FRAUDULENT MISREPRESENTATION

JJZ further contends that the trial court erred in denying its fraudulent misrepresentation claim. This claim was premised on a section in each of the Agreements titled “Representations and Warranties of Seller” wherein the seller, Mariani, represented and warranted, among other things, that “no proceedings, judgments, or liens are now pending or threatened against Seller or against the Business.” In its complaint, JJZ alleged that several of the LLCs owed outstanding property taxes totaling over \$70,000. The complaint further alleged that one of the LLCs had a judgment against it in the amount of \$83,990.06 from a previous lawsuit. JJZ entered the docket entries showing the judgment from the prior litigation into evidence.

The circuit court found that JJZ could not prevail on its claim for fraudulent misrepresentation primarily because there was no evidence presented to demonstrate that Mariani intended to deceive JJZ by failing to disclose the lien. Moreover, the court found that there was no evidence that JJZ suffered any damages because it still sought to enforce the Agreements despite the misrepresentation. We agree.

“Fraudulent inducement refers to ‘a situation where a person is induced by some fraudulent representation or pretense to execute the very instrument which is intended to be executed[.]’” *Swinton Home Care, LLC v. Tayman*, 264 Md. App. 487, 496 (2025) (quoting *Meyers v. Murphy*, 181 Md. 98, 100 (1942)). To prevail on a claim for fraudulent inducement or fraudulent misrepresentation, a plaintiff must prove by clear and convincing evidence that, ““(1) the defendant made a false representation to the plaintiff, (2) the falsity of the representation was either known to the defendant or the representation was made

with reckless indifference to its truth, (3) the misrepresentation was made for the purpose of defrauding the plaintiff, (4) the plaintiff relied on the misrepresentation and had the right to rely on it, and (5) the plaintiff suffered compensable injury as a result of the misrepresentation.” *White v. Kennedy Krieger Inst., Inc.*, 221 Md. App. 601, 635 (2015) (quoting *Hoffman v. Stamper*, 385 Md. 1, 29 (2005)).

Although JJZ did present evidence that the prior judgment existed and that Mariani did not disclose it, there was no evidence presented to show that Mariani failed to disclose the judgment “for the purpose of defrauding” JJZ. Accordingly, the circuit court’s finding that there was no such intent to defraud was not clearly erroneous.

UNJUST ENRICHMENT

Mariani’s first contention on cross-appeal is that the court erred in awarding JJZ \$39,480.29 in damages for expenses JJZ incurred while improving and maintaining the subject properties. Mariani argues that there was no basis for the award because the evidence presented at trial “consist[ed] largely of hearsay invoices from various vendors and uncashed checks” which he claims are insufficient to prove that JJZ actually paid the amounts alleged. We note at the outset that it appears that this argument has gone unpreserved, as the argument made on appeal is different than what was argued in the court below. *See* Md. Rule 8-131(a) (stating that, ordinarily, an appellate court will not decide an issue not raised in or decided by the trial court).

At trial, Mariani’s counsel objected to the introduction of the invoices and uncashed checks used to substantiate JJZ’s claim for unjust enrichment on the basis of inadmissible hearsay. The trial court found that the documents were admissible under Maryland Rule 5-

803(b)(24), an exception to the hearsay rule, and admitted them accordingly. In closing argument, Mariani’s counsel “reiterate[d] and preserve[d]” his hearsay objection to the documents.

On appeal, however, Mariani ostensibly does not challenge this evidentiary ruling. In the single page of his brief devoted to this issue, Mariani argues that “there is no evidence in the record that the amounts allegedly incurred were ever paid by JJZ or received by the vendors whose invoices appear in the record. As a result, the Circuit Court had no basis, let alone a reasonably certain basis, to award \$39,480.29 in favor of JJZ.” Mariani’s argument on appeal challenges the legal sufficiency of the documents to prove that JJZ actually paid the amounts alleged, as opposed to challenging the admissibility of the documents themselves—which was his argument below. Thus, his argument is not preserved.

Assuming his legal sufficiency argument had been preserved, we would nevertheless conclude that the evidence was legally sufficient to support the court’s damages award. To meet the test for legal sufficiency, evidence “must either show directly, or support the rational inference of, the fact to be proved.” *Keystone Masonry Corp. v. Hernandez*, 156 Md. App. 496, 506 (2004); *see also Univ. of Md. Med. Sys. Corp. v. Gholston*, 203 Md. App. 321, 329 (2012) (“In a civil case, the evidence is legally sufficient to support a finding in support of the prevailing party if, on the facts adduced at trial viewed most favorably to that party, any reasonable fact finder could find the existence of the elements of the cause of action by a preponderance of the evidence.”). The invoices and

checks introduced at trial, viewed in the light most favorable to JJZ, “support the rational inference” that JJZ incurred and paid those expenses.

TRESPASS

Mariani’s second contention on cross-appeal is that the circuit court erred by not awarding him damages after finding that Salem had trespassed on the 8206 Coastal Highway property. We agree that a finding of trespass entitles Mariani to some measure of damages.

“A trespass is an intentional or negligent intrusion upon or to the possessory interest in the property of another.” *Ford v. Balt. City Sheriff’s Off.*, 149 Md. App. 107, 129 (2002). To prevail on a claim for trespass, the plaintiff must demonstrate: (1) “a physical act or force against an individual’s property;” (2) “executed without the property owner’s consent;” (3) “which interferes with a possessory interest in that property.” *Id.*

A prevailing plaintiff in a trespass case can receive two separate and distinct categories of awards: compensatory damages, which focus on the injury to the property owner; and nominal damages, which focus on the violation. *Brown v. Smith*, 173 Md. App. 459, 483–84 (2007). Notwithstanding whether a property owner suffered an actual injury from a trespass on their property, nominal damages are always appropriate because “[e]very unauthorized entry upon the land of another is a trespass, and whether the owner suffers substantial injury or not, [the owner] at least sustains a legal injury, which entitles [the owner] to a verdict for some damages; though they may, under some circumstances, be so small as to be merely nominal.” *Id.* at 480 (quoting *Balt. & Ohio R.R. Co. v. Boyd*, 67 Md. 32, 40 (1887)); see also *Tyler v. Cedar Island Club, Inc.*, 143 Md. 214, 219 (1923)

(“the jury were directed to award at least nominal damages, if they found in favor of the plaintiff, even though the defendant's entry resulted in no substantial injury. There was no error in this instruction.”); *Timanus v. Leonard*, 121 Md. 583, 588 (1913) (“By the undisputed evidence in this case the entry of the defendants upon the lands of the plaintiff was unauthorized, and therefore was a trespass, and for such invasion of her rights the plaintiff is entitled to recover some damages of the defendants.”).

The trial court here found that a trespass had occurred but declined to award any damages:

The parties do not dispute that Salem has occupied the 8206 Coastal Highway property since January 2022, without proper authorization. Salem was asked to vacate the property on multiple occasions, and has refused to do so. This Court finds that Salem has in fact trespassed, but is not willing to award any additional damages.

This ruling was in error. Because Salem was found to have trespassed by refusing to vacate the subject property, Mariani was entitled to at least nominal damages for the invasion upon his possessory interest.

However, Mariani seeks compensatory damages as well. At trial, Salem testified that the fair market rental price for the 8206 Coastal Highway property was approximately \$36,000 per year or \$3,000 per month. Accordingly, Mariani claims that he is “entitled to damages in the amount of \$93,000.00 for Mr. Salem’s occupying and using the office building based on the fair rental price of the building during the period of occupancy.”⁶

⁶ Mariani states that the “period of occupancy” is approximately thirty-one months—from January 2022 to July 30, 2024, the date the judgment was entered.

Although fair rental value *may* be used as a metric by which a court can determine compensatory damages if appropriate, we are not persuaded that Mariani is entitled to that amount. As our Supreme Court explained in *Legacy Funding LLC v. Cohn*:

Compensatory damages in [an action for trespass], other than nominal damages or recovery for specific harm done to the property, is measured not by any “benefit derived by the defendant from the use of the land” but rather to provide “the injured party indemnity for his loss, and nothing more.” Those damages are “usually measured by a reasonable rent for the land wrongfully occupied.” *We do not construe those cases as establishing any right to fair rental value.* The right is to seek damages for the trespass, damages that may be measured by fair rental value.

396 Md. 511, 520 (2007) (citations omitted) (emphasis added). As such, Mariani is not “entitled” to the fair rental value of the property as he claims. Rather, he may seek compensatory damages and the court may, in its discretion, award him that which it deems sufficient to indemnify any loss that it finds. On remand, the circuit court must award at least nominal damages for trespass, but we defer to the court’s discretion whether any compensatory damage award is appropriate in these circumstances.

CONCLUSION

As a result of the foregoing, the judgment of the Circuit Court for Worcester County is affirmed in part and vacated in part. We conclude that the three Agreements are unenforceable because of JJZ’s failure to perform. We discern no error in the court’s determination that Mariani did not intend to deceive JJZ by failing to disclose the businesses’ debts. Mariani did not preserve his challenge to the legal sufficiency of the evidence substantiating JJZ’s claim of unjust enrichment; but, even if preserved, the evidence was legally sufficient. The circuit court erred by failing to award at least nominal

damages to Mariani for Salem's trespass on the 8206 Coastal Highway property. We remand with instructions for the court to amend its judgment to include at least a nominal damages award to Mariani for trespass.

**JUDGMENT OF THE CIRCUIT
COURT FOR WORCESTER COUNTY
AFFIRMED IN PART AND VACATED
IN PART. CASE REMANDED TO
DETERMINE DAMAGES FOR
TRESPASS. COSTS TO BE SPLIT
BETWEEN THE PARTIES.**