Circuit Court for Washington County
Case No. 21-C-17-59303-DJ

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2317

September Term, 2018

WOODPOINT SEAFOOD GRILL, LLC

v.

WOODPOINT BAR & GRILL, INC.

Meredith,
Leahy,
Friedman,

JJ.

Opinion by Friedman, J.

Filed: March 25, 2020

*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.

In 2013, Woodpoint Bar & Grill ("the Bar") and Woodpoint Seafood Grill ("the Grill") executed a lease. The Grill defaulted under the lease but claims that it is nevertheless entitled to exercise the option to purchase agreement under the addendum that was executed contemporaneously with the lease. For the reasons that follow, we agree with the trial court's determination that the Grill can no longer assert its rights under the option to purchase because that document was not a separately enforceable agreement. Accordingly, we affirm.

BACKGROUND

The Bar owns property located at 1437 Salem Avenue, Hagerstown, Maryland. The Bar and the Grill entered into a lease agreement, memorialized by the execution of a "Commercial Lease" and an "Addendum Describing Option to Purchase Premises." Under the lease, the Grill would occupy the property and have the option to purchase the property until the expiration of the lease. Conditions of default under the lease included: the Grill's failure to pay rent, the Grill's failure to perform under the lease, and the Grill's insolvency or bankruptcy. In the event of default, the Bar would have the power to terminate the lease, evict the Grill, and reclaim possession of the property.

During the lease term, the Grill failed to pay rent and other costs due under the lease. The Bar sent letters to the Grill explaining that the Grill had defaulted under the lease and thereafter notified the Grill of its decision to "terminate the Lease and repossess the Property." In response, the Grill filed a complaint in the Circuit Court for Washington County, seeking a declaratory judgment and asserting its right to exercise the option to

purchase. The Bar filed a Motion to Dismiss and/or Motion for Summary Judgment. The trial court granted the Bar's motion and dismissed the declaratory judgment action.[1]

DISCUSSION

I.

Contract interpretation is a question of law that we review without deference. *Clancy v. King*, 405 Md. 541, 556 (2008). For a party to be entitled to summary judgment in a contractual dispute, the moving party must demonstrate that "there is no genuine dispute as to any material fact" and that it is "entitled to judgment as a matter of law." MD. RULE 2-501(a). After the moving party has satisfied this burden, the nonmoving party must "demonstrate that there is a genuine dispute of material fact." *Gross v. Sussex Inc.*, 332 Md. 247, 255 (1993). A trial court's decision to grant a motion for summary judgment is also reviewed without deference. To determine whether the trial court's decision is legally correct, this Court examines the same issues of law as the trial court, "review[s] the record

[1] The Grill argues that the trial court erred by failing to declare the rights of the parties in ruling on the declaratory judgment action. It is a longstanding rule in Maryland that "when a declaratory judgment action is brought, and the controversy is appropriate for declaratory judgment, 'the trial court must render a declaratory judgment.'" *McBriety v. Comm'rs of Cambridge*, 127 Md. App. 59, 63 (1999) (quoting *Christ by Christ v. Md. Dep't of Nat. Res.*, 335 Md. 427, 435 (1994)). Under this rule, a court cannot orally declare the rights of the parties because to properly enter a declaratory judgment, "[t]he text of the judgment *must be in writing*." *Bowen v. City of Annapolis*, 402 Md. 587, 608 (2007). If a trial court's adherence to this rule is deficient, the appropriate remedy is to remand the case "so the court can enter a new judgment that includes a declaration of the rights of the parties." *McBriety*, 127 Md. App. at 65. In the instant case, however, the trial court did not restrict itself to just ruling in favor of the Bar. The court's written order and opinion discussed the effect that its ruling and the Grill's breach of contract had on both the Bar and the Grill's interests in the premises. We are satisfied that this is a sufficient "declaration of the rights of the parties."

in the light most favorable to the nonmoving party[,] and construe[s] any reasonable inferences that may be drawn from the facts against the moving party." *Livesay v. Baltimore Cty.*, 384 Md. 1, 10 (2004).

II.

The disagreement between the Grill and the Bar concerns whether two documents—the "Commercial Lease" and the "Addendum Describing Option to Purchase Premises"—create one contract or two. The Grill argues that the addendum is not a part of the lease, but a separate enforceable offer to enter into a new contract. Thus, according to the Grill, it can still exercise the option despite its default on the lease. The Bar argues that the lease and option together form a single, indivisible contract and, therefore, the Grill's default under the contract prevents it from exercising the option.

"A contract need not be evidenced by a single instrument." *Ford v. Antwerpen Motorcars Ltd.*, 443 Md. 470, 479 (2015) (quoting *Rocks v. Brosius*, 241 Md. 612, 637 (1966)). In Maryland, there are "longstanding common law contract principles permitting the construction or reading of multiple documents together as part of a single transaction." *Id*. at 479. Where, as here, a contract consists of more than one document, the documents will "be read and construed together as evidencing the intention of the parties in regard to the single transaction" "so that, to the extent possible, all of the provisions can be given effect." *Rocks*, 241 Md. at 637; *Rourke v. Amchem Products, Inc.*, 384 Md. 329, 354 (2004).

In the instant case, the trial court found that the parties intended for the two documents to be treated as a single contract, as evidenced by the fact that:

> [b]oth documents were signed on the same day, and both documents set their duration for corresponding dates, with their terms beginning on November 1, 2013 and ending on December 31, 2018. The numbering of the pages suggest that they are one continuous agreement because the Lease is numbered 1 through 8 while the Addendum is numbered 9 through 10. The subject matter of both documents is the same property, and the purpose of the Addendum was to grant permanent possession of the property that the tenant temporarily possessed as set forth in the Lease.

Woodpoint Seafood Grill, LLC v. Woodpoint Bar & Grill, Inc, et al., Circuit Court for Washington County, Case No: 21-C-17-059303; Opinion and Order of the Court 1, 6 (Aug. 15, 2018). We agree with the trial court that, from these facts, it can be reasonably inferred that the parties intended the documents to be read together.

Moreover, the documents also expressly reference each other. The lease refers to the addendum with the following language: "Purchase Option. The Lessee has certain rights pursuant to an Option to Purchase Premises which said rights and obligations are set forth in an Addendum describing Option to Purchase Premises attached hereto and made a part hereof." Meanwhile, the addendum states that it was to be "executed simultaneously" with the "Commercial Lease." This type of cross-referencing is known as incorporation by reference. "Incorporation by reference is a method of contract drafting such that where a subsequent document references a previous document, it incorporates that previous document into the subsequent." *Pinnacle Group, LLC v. Kelly*, 235 Md. App. 436, 462 (2018). The effect of incorporation by reference is that "the earlier document is made a part of the second document, as if the earlier document were fully set forth therein." *Id*. It is clear to us that this principle applies to the language used in the lease and addendum

governing the dispute between the Bar and the Grill. The "Commercial Lease," therefore, is incorporated by reference into the addendum.

Based on this, we are satisfied that there was sufficient evidence for the trial court to conclude that the "Commercial Lease" and the "Addendum Describing Option to Purchase Premises" were both part of the same contract. As a result, the Grill's default justified the Bar's termination of the lease, thereby ending all of the Grill's rights under the lease, including its right to exercise the option to purchase. Moreover, the Grill failed to put forth any compelling evidence to convince the trial court—or us—that these are disputed facts or that there are other reasonable inferences that can be drawn from the language in the lease and addendum. *See Gross*, 332 Md. at 255; *see also Goodwich v. Sinai Hosp. of Baltimore, Inc.*, 343 Md. 185, 207 (1996). We, therefore, hold that because the lease and addendum together create one, indivisible contract, the trial court's grant of summary judgment in favor of the Bar was proper.[2]

JUDGMENT OF THE CIRCUIT COURT FOR WASHINGTON COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.

[2] The Bar also cross-appealed, arguing that the trial court erred by denying its motion for attorneys' fees and costs under Maryland Rule 1-341. MD. RULE 1-341(a) (authorizing a court to impose reasonable sanctions against a party that has maintained or defended a proceeding "in bad faith or without substantial justification"). The trial court found that the Grill's lawsuit, although not meritorious, was not maintained "in bad faith or without substantial justification." It would be very unusual for us to hold that the trial judge abused her discretion in *not* being persuaded that a party acted with the requisite bad faith. *See Starke v. Starke*, 134 Md. App. 663, 680-681 (2000). We won't do so here.

The correction notice(s) for this opinion(s) can be found here:

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