STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1344

Rosetta Muscianese,
Respondent,

vs.

James Dankers,
Appellant.

Filed March 26, 2018
Reversed and remanded
Jesson, Judge

Wabasha County District Court
File No. 79-CV-17-132

Sean Finnegan, Ekstrand Finnegan Law Office, PLC, Wabasha, Minnesota (for respondent)

Marshall Tanick, Hellmuth & Johnson, PLLC, Edina, Minnesota; and

Patrick Lowther, Pat Lowther Law, PLC, Lake City, Minnesota (for appellant)

Considered and decided by Cleary, Chief Judge; Reyes, Judge; and Jesson, Judge.

U N P U B L I S H E D O P I N I O N

JESSON, Judge

Appellant James Dankers and his mother, respondent Rosetta Muscianese, were both signatories on a joint bank account. Dankers withdrew money from this account, initiating the current dispute of whether he was entitled to any of the money. Dankers

claimed the money deposited within the account was a gift, but Muscianese argued she remained the exclusive owner. Without stating a legal cause of action, Muscianese filed a lawsuit demanding judgment in the amount Dankers received. After a bench trial, the district court entered judgment in favor of Muscianese without stating any conclusions of law. On appeal, both parties mention causes of action for the first time, urging us to determine whether the district court erred in determining Muscianese had a right to the money. We decline to do so. We instead address the appropriate resolution when not just the complaint, but the entire case, lacks an underlying legal theory. The appropriate outcome, we conclude, is to reverse and remand with instructions to dismiss.

FACTS

In January 2017, respondent Rosetta Muscianese filed a lawsuit against her son, appellant James Dankers. Effectively setting the theme for the litigation to come, the complaint lacked any legal cause of action. The complaint asserted four facts: (1) Dankers withdrew $40,000 from Muscianese's bank account; (2) received $10,000 in cash from Muscianese; (3) Dankers was to return this money to Muscianese upon her request; and (4) Dankers failed to return the money upon Muscianese's subsequent request. Dankers's answer denied any knowledge of the $10,000, but explained the $40,000 was withdrawn from a joint account because the money was deposited for his personal use. No dispositive motion to dismiss or discovery followed.

Despite the lack of clarity regarding any legal theory, the case proceeded to a half-day bench trial in June 2017. While the trial did not shine any light on what legal cause of

action Muscianese sought relief under, it did provide the parties the opportunity to explain the facts surrounding the $50,000 at issue.

Dankers submitted into evidence a June 2012 bank agreement for the account in question, which showed that it was a joint bank account with survivorship. Both Muscianese and Dankers were signatories on the account, along with Muscianese's other son, Jerald. According to the terms and conditions of the account, Muscianese and her sons each had the individual right to "withdraw or transfer all or any part of the account balance at any time." Over time approximately $150,000 was deposited into this account. Also submitted into evidence was a notarized letter from September 2014, signed by Muscianese.[1] This letter referenced the joint bank account and stated that two-thirds of the bank account belongs to her sons, and that it was money she gifted to them over a 20-year period. The letter also states the sons have permission to withdraw from her one-third portion of the account for her discretionary use. Records show that shortly after the letter was notarized Dankers withdrew $20,000, and then an additional $20,000 a few days later.[2]

While the documents painted one picture of the bank account, conflicting testimony at trial blurred that picture. Muscianese testified that she did not recall signing the notarized statement and did not recall the content of the letter. She explained that her sons could only withdraw money for her use. She testified that Dankers withdrew $40,000 without

[1] The notary testified that she verified Muscianese's identity and confirmed that Muscianese signed this letter.

[2] Also submitted into evidence was a July 2015 letter from Dankers to Muscianese. This letter stated that Dankers did not steal $40,000 from her, it was a gift from her, he did not spend any of the money, and he was holding on to it in case she needed it in the future.

permission. She also asserted that she provided $10,000 in cash to each son, so that each had available money in case she needed it. Like the money in the bank account, it was to be spent exclusively for her needs. Jerald provided testimony consistent with his mother's statements.[3]

Dankers and his wife, Ann, provided a different version of events. Dankers explained that Muscianese wanted him to withdraw money from the account to purchase a truck. Dankers replied that he did not want to withdraw any money without written permission, so the notarized letter was created. Dankers testified that Muscianese dictated the notarized letter, he wrote it, and Ann re-wrote it legibly. He stated that Jerald was present when the letter was notarized. He stated that he still has most of the money, did not buy a truck, but does not want to return it because he is afraid it will get misused. Ann testified that Muscianese said that she purchased vehicles for Jerald and wanted Dankers to have something as well.

At the conclusion of trial, the district court stated: "[i]t strikes me that what we have here is kind of an informal conservatorship, but not with the formalities and the trappings of a formal conservatorship that is overseen by the Court. It's kind of an informal arrangement that the mother and son have. . . . [A]m I . . . on the right path there?" Muscianese agreed while Dankers remained silent. And on June 26, 2017, the district court

[3] Jerald testified that he was a joint owner of the bank account and had access to the money in case Muscianese needed it. He stated that he was not under the impression that any of the money in the bank account belonged to him and that he was unaware of the notarized letter. He also stated he received $10,000 in cash from Muscianese to hold onto in case Muscianese needed it and that he used some of the cash to take care of Muscianese's finances.

issued a brief order for judgment. It stated that Dankers received $50,000 from Muscianese, but that "these payments were given on the condition that [Dankers] would return it to her on request to pay for her needs." It then ordered judgment in favor of Muscianese in the amount of $50,000. The order did not contain any conclusions of law or references to any legal theories or causes of action.

D E C I S I O N

Mirroring the vagueness of the district court legal proceedings, the parties fail to agree what the legal issue is on appeal. While both parties address Dankers's defense that the money was a gift, the parties merely theorize the possible causes of actions—such as unjust enrichment and constructive trusts—that would support Muscianese obtaining relief. Below, we first address why this record prevents us from conducting appropriate appellate review: a cause of action was never developed and the dispute—as presented—is not proper for the judicial system. Second, we determine the appropriate resolution.[4]

The key problem is that this case lacked a legal cause of action or supporting legal theory throughout the *entire* litigation process. A complaint "should put a defendant on notice of the claims against him." *Dean v. City of Winona*, 868 N.W.2d 1, 8 (Minn. 2015) (internal quotations omitted). And the Minnesota Rules of Civil Procedure require that the complaint "contain a short and plain statement of the claim showing that the pleader is entitled to relief." Minn. R. Civ. P. 8.01. The complaint here did not put Dankers on notice

[4] Dankers argues that Muscianese's claim is barred by the statute of frauds under Minnesota Statutes section 513.01 (2016). But because it is unclear what Muscianese's claim actually is, we are unable to address this argument.

of the claims against him, nor was there a statement setting forth any legal theory showing Muscianese was entitled to relief. Dankers, however, did not file any dispositive motions, and the case proceeded. At no point prior to appeal, either before or at trial, did any party construe this case to put forth a specific legal theory. After the parties rested at trial, the district court understandably expressed confusion over the exact legal theory the case was proceeding under, and when faced with issuing an order, the court did not include any conclusions of law.[5]

Without a legal theory, this case finds itself in the rare predicament where it is unclear what legally supported the judgment entered in favor of Muscianese. In *D.M. Osborne & Co. v. Johnson*, the Minnesota Supreme Court encountered similar circumstances. 35 Minn. 300, 28 N.W. 510 (1886). There the parties went to trial over what may have been a breach of contract claim, but the record lacked clarity. *Id.* at 300, 28 N.W. at 510. The supreme court stated:

> [A]ccording to the record, the complaint states no cause of action, and the answer no counter-claim. Neither party introduced any evidence. On such a state of facts neither party was entitled to judgment on the pleadings for even nominal damages. What defendant was entitled to was judgment dismissing the action, and for costs.

[5] This is inconsistent with Minnesota Rules of Civil Procedure 52.01, which states in "all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon and direct the entry of the appropriate judgment." While rule 52.01 has several exceptions where appellate courts may still review orders lacking distinct findings of fact or conclusions of law, such as when the record is sufficiently clear, no exceptions are applicable here. *See Crowley Co. v. Metro. Airports Comm'n*, 394 N.W.2d 542, 545 (Minn. App. 1986) ("Generally, where the record is reasonably clear and the facts not seriously disputed, the judgment of the trial court can be upheld in the absence of trial court findings made pursuant to Rule 52.01.") (internal quotations omitted).

Id.

The fundamentals lacking in that case nearly a century and half ago are just as essential today.[6] Similar to *D.M. Osborne & Co.*, after a careful review of the record we do not see any hint of a cause of action, and we can only speculate as to what legal claims may support the judgment. The parties urge us to take this route and determine what causes of action may apply, but it is not this court's role to fill in the blanks the parties leave empty. *See In re Application of Salah*, 629 N.W.2d 99, 104 (Minn. App. 2001) ("In short, absent an explanation by the district court of what legal and factual determinations it made, how to review those determinations is unclear. And, on this disputed record, we decline to attempt to address the questions as a matter of law.").

The facts in this case are but one example of disagreements and conflict that proliferate in our society. But not all disputes—and we have no doubt that the conflict here imposed hardship on this family—can be resolved in the judicial system. Nor should they. In this country, governed by the rule of law, judges necessarily focus on the *legal* disputes before them. Our role simply is not one of a roving community mediator, important as that work may be.

[6] Properly framing pleadings and stating grounds for relief have been indispensable requirements in Minnesota, even before it reached statehood. The Supreme Court of the Territory of Minnesota stated a plaintiff must distinctly state "the grounds upon which he demands relief" in the complaint, or otherwise, "written pleadings would be a deception, wholly useless except to mislead." *Russell v. Minnesota Outfit*, 1 Minn. 162, 165, 1 Gil. 136, 139-140 (1854).

This observation leads to the second part of the analysis: what is the appropriate resolution when a case, lacking a legal basis, is fundamentally flawed from the pleadings onwards? Generally, when the record is unclear or there are insufficient findings, this court remands for the district court to make further findings. *See Gams v. Houghton*, 869 N.W.2d 60, 65 (Minn. App. 2015), *aff'd as modified*, 884 N.W.2d 611 (Minn. 2016) ("[R]emand is the appropriate remedy when the district court has made insufficient findings to enable appellate review."). However, due to the flaws pervasive throughout this case, we are unsure if the district court would even be in position to make further findings, and instead would find itself—as would we—merely speculating. Another option for appellate courts when faced with insufficient findings is to reverse for a lack of substantial evidence supporting the decision. *Dokmo v. Indep. Sch. Dist. No. 11, Anoka-Hennepin*, 459 N.W.2d 671, 675 (Minn. 1990).

But here the facts most resemble *D.M. Osborne & Co. v. Johnson*, where the Minnesota Supreme Court, too, found itself faced with a case that made it through trial without any cause of action in its record. 35 Minn. at 300, 28 N.W. at 510. There the court stated the defendant was entitled to dismissal because the record did not show any legal cause of action and the judgment was in error, but because the defendant was awarded only nominal damages, the error was not material. *Id.* at 300-01, 28 N.W. at 510. Here however, the defendant had a $50,000 judgment entered against him based on no legal cause of action. This was a material error. We determine that, in light of the flaws throughout the

case, to reverse and remand with instructions to dismiss without prejudice is the appropriate remedy.[7]

Reversed and remanded.

[7] We take note of Dankers's stated intent to use his money to assist his mother. Moral obligations are not legal obligations, but while "binding only on the conscience," they are nonetheless admirable. *See Rask v. Norman*, 141 Minn. 198, 201-02, 169 N.W. 704, 706 (1918).