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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1751**

Robert F. Goerdt, et al.,
Respondents,

vs.

Joyce E. Folsom, et al.,
Appellants.

**Filed July 2, 2018
Affirmed
Kirk, Judge**

Grant County District Court
File No. 26-CV-14-287

Dennis W. Hagstrom, Law Offices of Dennis W. Hagstrom, Fergus Falls, Minnesota (for respondents)

Nathan L. Seeger, Fergus Falls, Minnesota (for appellants)

Considered and decided by Kirk, Presiding Judge; Peterson, Judge; and Stauber, Judge.*

UNPUBLISHED OPINION

KIRK, Judge

After a court trial in this intrafamilial real-property dispute, appellants argue that the district court erred in determining that (1) respondents' action is not barred by Minn. Stat.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

§ 541.05, subd. 1(1) (2016)¹; (2) respondents’ interest in the property was not extinguished by Minn. Stat. § 500.20, subd. 2a (2016); and (3) respondents are the fee simple owners of the property. We affirm.

FACTS

This case involves the disputed ownership of a 120-acre parcel of farmland in Grant County, which the parties call “the Section 3 land.” The following facts were found by the district court after a bench trial and are undisputed on appeal.

On November 15, 1978, Cornelius and Clara Goerd, the original owners of the Section 3 land, entered into a contract for deed to sell the Section 3 land to their grandson and his wife, respondents Robert and Debra Goerd. Under the contract for deed, respondents agreed to pay \$54,000 for the land, with \$15,660 down, and the balance to be paid in annual installments from 1979 until 1994. The contract for deed provided for accrual of interest at the rate of 7% per year. However, Cornelius and Clara never intended to charge interest and specifically wanted respondents to pay only the principal balance of \$54,000. They included the interest clause in the contract only as a formality based on the recommendation of the lawyer who drafted it, and waived all interest payments during the contract.

Respondents moved onto the Section 3 land shortly after entering into the contract for deed. Since 1978, respondents have farmed the land and paid all real estate taxes on

¹ We cite the most recent version of Minn. Stat. § 541.05 because it has not been amended in relevant part. See *Interstate Power Co. v. Nobles Cty. Bd. of Comm’rs*, 617 N.W.2d 566, 575 (Minn. 2000) (stating that, generally, “appellate courts apply the law as it exists at the time they rule on a case”).

the property. During that time, respondents spent over \$210,000 on improvements to the property, including replacing the foundations of the granary and hog barn, remodeling and repairing the house, installing a new driveway, moving buildings, digging ditches, and installing a new sewer line. In 2013, respondents' son moved a house onto the property at the cost of \$100,000.

Clara died in 1989, and Cornelius died in 1990. Clara's vendor interest passed from her estate to Cornelius, and then from Cornelius's estate to their children, Lorain Goerdt and appellant Joyce Folsom, in equal shares. Lorain Goerdt is respondent Robert Goerdt's father. Following Cornelius's death, Lorain administered the contract for deed, and respondents made payments to him and to Folsom until the principal balance of the contract for deed was paid off in 1997. Payment records show annual payments by respondents against the principal balance and reflect no interest accrual or interest payments over the duration of the contract. Folsom received payments through 1997 but never asked for, nor obtained, any details on the contract for deed. After respondents' final payment in 1997, Lorain presented them with the abstract for the property, but because both Lorain and respondents erroneously believed that the abstract conveyed title, respondents never received a warranty deed for the property. Lorain died in 2013.

In 2014, respondents discovered that they did not have good title to the property because they did not possess the warranty deed. They obtained quit-claim deeds from several relatives in an attempt to clear title to the property, but Folsom refused to sign.

In December 2014, approximately 17 years after receiving respondents' last payment, Folsom notified respondents for the first time that she believed they owed money

on the contract for deed. In 2015, Lorain's vendor's interest in the property was transferred to his widow, appellant Lucille Goerd, the mother of Robert Goerd. Appellants Folsom and Lucille Goerd subsequently notified respondents that they believed respondents had defaulted on the contract for deed, and, based on unpaid interest, owed appellants \$88,168.44. Folsom claimed that she was never informed that the original vendors had agreed to waive interest on the contract.²

Respondents sued Folsom and the estate of Lorain Goerd "to determine the title to the [Section 3 land] and [any] adverse claims," claiming fee simple ownership of the property. Appellant Kathleen Stoesser, as personal representative of Lorain Goerd's estate, and Lucille Goerd, were later added as defendants. Following a bench trial, the district court issued its order for judgment and decree, concluding that respondents are fee simple owners of the Section 3 land; the doctrines of laches, waiver, and estoppel preclude appellants from asserting nonpayment of the contract for deed; and appellants have no right, title, estate, interest in, or lien upon the Section 3 land. Appellants moved to amend the district court's findings, conclusions of law, and order, or in the alternative, for a new trial, which the district court denied.

This appeal follows.

² On appeal, appellants do not challenge the district court's factual finding that Cornelius and Clara never intended to charge interest on the contract for deed.

DECISION

I. The district court did not err in determining that respondents' action is to determine adverse claims and is not barred by Minn. Stat. § 541.05, subd. 1(1).

Appellants argue that the district court erred in determining that respondents brought an action to determine adverse claims, rather than a contract action for specific performance, which would be barred by the six-year statute of limitations under Minn. Stat. § 541.05, subd. 1(1). We review the construction and applicability of statutes of limitations *de novo*. *Benigni v. County of St. Louis*, 585 N.W.2d 51, 54 (Minn. 1998).

We first determine whether respondents brought an action to determine adverse claims or a contract action. Minn. Stat. § 559.01 (2016) defines an action to determine adverse claims to real property. The statute provides:

Any person in possession of real property personally or through the person's tenant, or any other person having or claiming title to vacant or unoccupied real property, may bring an action against another who claims an estate or interest therein, or a lien thereon, adverse to the person bringing the action, for the purpose of determining such adverse claim and the rights of the parties, respectively.

Minn. Stat. § 559.01. In both respondents' initial and amended complaints, they alleged that appellants claimed a right or title to the Section 3 land, and that "the purpose of [respondents'] action is to determine the title to [the Section 3 land] and the adverse claims thereto, if any, and to forever bar the claims of any other persons."

Appellants contend that two statements in respondents' amended complaint show that respondents brought a contract action for specific performance. First, appellants point to a caption in the amended complaint listing the case type as "Specific Performance," when previous filings listed the case type as "Quiet Title." Second, appellants claim that

respondents' statement that they "are entitled to a Warranty Deed pursuant to the terms of the Contract for Deed" shows that they sought specific performance under the contract.

Here, the record contains no evidence explaining the amended case type or showing that either respondents or the district court treated the complaint as an action for specific performance. Respondents' amended complaint added appellants Lucille Goerdts and Kathleen Stoesser as defendants, but did not change the stated purpose of the complaint or the requested relief. Respondents' statement that they are entitled to a warranty deed merely evinces support for their allegation that they fully performed the contract for deed by paying off the principal balance in full. Respondents did not seek to compel appellants to deliver a warranty deed pursuant to the contract, nor did the district court order such relief. We conclude that appellants' characterization of the complaint as a contract action for specific performance is unsupported by law or the record and that the district court correctly determined that respondents brought an action to determine adverse claims, or a "quiet title" action.

We next determine whether respondents' action to determine adverse claims is barred by the six-year statute of limitations under Minn. Stat. § 541.05, subd. 1(1). Minn. Stat. § 541.05, subd. 1(1), provides that "the following actions shall be commenced within six years: (1) upon a contract or other obligation, express or implied, as to which no other limitation is expressly applied." In *Coates v. Cooper*, the Minnesota Supreme Court held that an action to determine adverse claims is not barred by the six-year statute of limitations under a prior version of section 541.05, subdivision 1(1), containing identical language. 121 Minn. 11, 21-22, 140 N.W. 120, 124 (1913) (citing R.L. § 4076). In *Coates*, the

supreme court concluded that the parties had executed a contract to transfer title to land even though the vendee never received a deed, and therefore the vendee properly brought an action to determine adverse claims. *Id.* at 20-22, 140 N.W. at 124.

Here, the undisputed facts show that the parties treated the contract for deed as satisfied and the Section 3 land as belonging to respondents, beginning in 1997, when respondents paid off the principal balance and received an abstract for the property, which they erroneously believed conveyed title. More than 17 years passed until respondents first learned of the title defect, and after Folsom rejected their request to sign a quit-claim deed, they properly brought an action to determine adverse claims. The district court did not err in concluding that respondents' action to determine adverse claims is not barred by the six-year statute of limitations under section 541.05, subdivision 1(1). *See Coates*, 121 Minn. at 21-22, 140 N.W. at 124.

II. The district court did not err in determining that respondents' interest in the property was not extinguished by Minn. Stat. § 500.20, subd. 2a.

Appellants argue that the district court erred in determining that respondents' interest in the Section 3 land was not extinguished by operation of Minn. Stat. § 500.20, subd. 2a. Specifically, appellants contend that respondents acquired no legal title because they never fully performed the contract for deed, and therefore their interest in the property remained tied to the contract until it extinguished when the contract voided after 30 years by operation of Minn. Stat. § 500.20, subd. 2a.³

³ Appellants also argue that equitable relief is unavailable if an instrument conveying property is voided by operation of Minn. Stat. § 500.20, subd. 2a. Because we conclude that Minn. Stat. § 500.20, subd. 2a, does not operate to void a contract for deed, we need not address this question.

Whether a contract for deed may be voided by operation of Minn. Stat. § 500.20, subd. 2a, presents a question of statutory interpretation, which we review de novo. See *Cocchiarella v. Driggs*, 884 N.W.2d 621, 624 (Minn. 2016). “The object of all interpretation and construction of laws is to ascertain and effectuate the intention of the legislature.” Minn. Stat. § 645.16 (2016). “When interpreting a statute, we first look to see whether the statute’s language, on its face, is clear or ambiguous. A statute is only ambiguous when the language therein is subject to more than one reasonable interpretation.” *Am. Family Ins. Grp. v. Schroedl*, 616 N.W.2d 273, 277 (Minn. 2000) (quotation and citation omitted). “When legislative intent is clear from the statute’s plain and unambiguous language, we interpret the statute according to its plain meaning without resorting to other principles of statutory interpretation.” *State ex rel. Duncan v. Roy*, 887 N.W.2d 271, 276 (Minn. 2016) (quotation omitted).

Minn. Stat. § 500.20, subd. 2a, provides:

Restriction of duration of condition. Except for any right to reenter or to repossess as provided in subdivision 3, all private covenants, conditions, or restrictions created by which the title or use of real property is affected, cease to be valid and operative 30 years after the date of the deed, or other instrument, or the date of the probate of the will, creating them, and may be disregarded.

The language of the statute limits the “duration of [a] condition” affecting title or use of real property, and provides that all such “private covenants, conditions, or restrictions” are invalid and inoperable “30 years after the date of the deed, or other instrument . . . creating them.” But the statute’s language imposes no limitation on the term of the instrument through which such conditions or restrictions are created.

Appellants cite no case in which the statute has been applied to void a contract for deed or other instrument conveying land. The Minnesota Supreme Court has held that the statute applies to “covenants, conditions, or restrictions created by any instrument conveying land,” and addresses the “general problem of conditions that impose a perpetual restriction on the use or title of land.” *In re Turners Crossroad Dev. Co.*, 277 N.W.2d 364, 373 (Minn. 1979) (interpreting Minn. Stat. § 500.20, subd. 2 (1978)); see *Hiller v. County of Anoka*, 529 N.W.2d 426, 429 (Minn. App. 1995) (noting that Minn. Stat. § 500.20, subd. 2, was repealed in 1982 but reenacted in 1988 as Minn. Stat. § 500.20, subd. 2a). “The statute itself is notice to all those who place any restriction on the use of land that such restriction will become invalid 30 years after its creation.” *Turners*, 277 N.W.2d at 373. The broad sweep of appellants’ interpretation of the statute would have the effect of invalidating all contracts for deed with terms longer than 30 years. The statute’s plain language does not support appellants’ interpretation, and we conclude that Minn. Stat. § 500.20, subd. 2a, does not void a contract for deed after 30 years. Therefore, the district court did not err in determining that respondents’ interest in the property was not extinguished by the statute.

III. The district court did not err in determining that respondents are the fee simple owners of the property.

Appellants argue that the district court erred in determining that respondents are the fee simple owners of the property because they did not fully perform the contract for deed

and because the district court cannot transfer legal title through a quiet title action.⁴ Appellants' argument is misguided.

First, appellants fail to address the district court's determination that respondents are the fee simple owners of the property based on the equitable doctrines of laches, waiver, and estoppel, which preclude appellants from asserting that respondents did not pay off the contract for deed in full.⁵ Second, the district court did not "transfer" title to respondents through quiet title, but rather, determined that respondents are the fee simple owners under equitable principles, and that appellants possessed no right, title, or interest in the property.

"An assignment of error based on mere assertion and not supported by any argument or authorities in appellant's brief is waived and will not be considered on appeal unless prejudicial error is obvious on mere inspection." *Schoepke v. Alexander Smith & Sons Carpet Co.*, 290 Minn. 518, 519–20, 187 N.W.2d 133, 135 (1971). Prejudicial error is not obvious upon mere inspection of the unchallenged factual findings. We conclude that the district court did not err in determining that respondents are the fee simple owners of the property.

Affirmed.

⁴ Appellants raise two additional arguments: first, that respondents did not take ownership by adverse possession; and second, that appellants should not receive an opportunity to redeem the property if the contract for deed is voided. Appellate courts generally consider only those issues presented and considered by the district court. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). Because the district court neither determined that respondents took the property by adverse possession nor ordered cancellation of the contract, we need not decide the issues.

⁵ We note that appellants challenge the equitable relief granted by the district court only on the grounds that respondents' interest was extinguished by operation of Minn. Stat. § 500.20, subd. 2a. Because we previously determined that the contract for deed was not voided by Minn. Stat. § 500.20, subd. 2a, we need not readdress that argument here.