

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1112**

Eric F. Netter, et al.,
Respondents,

vs.

Shauna L. Raisch,
Appellant.

**Filed May 10, 2021
Affirmed
Bryan, Judge**

Cass County District Court
File No. 11-CV-19-772

Jonathan D. Wolf, Benjamin B. Bohnsack, Rinke Noonan, St. Cloud, Minnesota (for respondents)

Boris Parker, Jordan W. Anderson, Parker & Wenner, P.A., Minneapolis, Minnesota (for appellant)

Considered and decided by Bratvold, Presiding Judge; Bjorkman, Judge; and Bryan, Judge.

NONPRECEDENTIAL OPINION

BRYAN, Judge

In this appeal from the district court's order confirming an arbitrator's final award in a dispute over property rights, appellant argues that the district court erred when it denied her motion to vacate the award. Because appellant's argument is contrary to the law, we affirm the district court's denial of appellant's motion.

FACTS

In May 2019, respondents Eric and Constance Netter, Netter Enterprises, and Ericka and Creek Kuser brought a civil action against appellant Shauna Raisch regarding the parties' property rights to lakeshore on Leech Lake. According to the complaint, the owners of nine lots along the lakeshore each own an interest in a parcel known as Outlot C. Raisch owns two of the nine interests in Outlot C, and respondents all own interests as well.¹

In their complaint, respondents alleged that Raisch had substantially interfered with the property rights of the other lot owners by denying the property owners access to the lake. The complaint alleged that Raisch had interfered with respondents' efforts to install a dock in front of Outlot C and had installed her own dock system in a way that encroached on the waters in front of Outlot C. The lots are subject to a "Declaration of Covenants, Conditions, Easements and Restrictions" (the declaration), which the owners entered into in June 1997. An amendment to the declaration was executed in September 1998. Respondents' complaint alleged that Raisch's actions violated the terms in the declaration, as well as Minnesota law. Respondents sought injunctive relief, asking the district court to order Raisch to remove portions of her dock system that interfered with the rights of the other lot owners, and to require Raisch to comply with the terms of the declaration.

Raisch moved to dismiss or to compel arbitration, pointing to an arbitration clause in the declaration that requires arbitration of all disputes between lot owners regarding

¹ The owners of the remaining interests in Outlot C are not parties to this case, but they consented to the action and aligned with respondents during the proceedings.

docks and lake access. The district court granted Raisch's motion to compel arbitration and stayed proceedings pending the completion of arbitration. The district court appointed an arbitrator, and the case proceeded to arbitration.

An arbitration hearing was held in June 2020. The arbitrator issued a final award and memorandum, which granted respondents much of the injunctive relief they sought. Based on the arbitrator's interpretation of relevant provisions in the declaration, the order defined the scope of the various lot owners' voting rights under the declaration as well as their dock placement rights and ability to make improvements to Outlot C. The arbitrator ordered Raisch to temporarily remove her dock from the lake and ordered the Outlot C owners to install a dock configuration agreed upon by a majority of the owners, with Raisch permitted to reinstall her dock in a way that did not interfere with the new dock configuration.

Respondents moved the district court to confirm the arbitrator's award. Raisch moved to vacate the award, arguing that the arbitrator exceeded his powers. The district court confirmed the arbitrator's award and denied Raisch's motion to vacate, rejecting Raisch's argument that the arbitrator exceeded his powers. This appeal follows.

DECISION

Raisch argues that the district court erred by confirming the arbitrator's final award and denying her motion to vacate the award. Specifically, Raisch contends that the arbitrator exceeded his authority because the arbitrator erroneously applied the law regarding riparian rights and misapplied the principles of contract interpretation. Because arbitrators do not exceed their powers if they misapply the law, Raisch did not assert a

valid basis to vacate the award. We, therefore, affirm the district court’s decision to deny Raisch’s motion to vacate.

Parties may move to vacate arbitration awards on several grounds, including when arbitrators exceed their powers. Minn. Stat. § 572B.23(a) (2020). As the party challenging the arbitration award, Raisch has the burden to show that the arbitrator in this case “clearly exceed[ed his] powers before [the] award will be overturned.” *Hilltop Constr., Inc. v. Lou Park Apartments*, 324 N.W.2d 236, 239 (Minn. 1982). “Every reasonable presumption is exercised in favor of the finality and validity of the award.” *Nat’l Indem. Co. v. Farm Bureau Mut. Ins. Co.*, 348 N.W.2d 748, 750 (Minn. 1984).

Raisch argues that by incorrectly applying the law, the arbitrator exceeded his powers.² Raisch is incorrect. This court has explained that when an appellate court is faced with the question of whether the arbitrator exceeded his powers, “the only issue before us is whether the question decided by the arbitrator was within his authority to decide; we may not examine the underlying evidence and record, or otherwise delve into the merits of the award.” *Liberty Mut. Ins. Co. v. Sankey*, 605 N.W.2d 411, 414 (Minn. App. 2000), *review denied* (Minn. Apr. 18, 2000). “[A]n arbitrator, in the absence of an agreement limiting his authority, is the final judge of both law and fact, including the interpretation of the terms of any contract, and his award will not be reviewed or set aside for mistake of

² We observe that Raisch does not challenge the arbitrability of the dispute. We also note that the arbitration clause in the declaration mandates arbitration of issues regarding enforcement and disputes involving lake access and the positioning of docks. *See County of Hennepin v. Law Enf’t Labor Servs., Inc., Local No. 19*, 527 N.W.2d 821, 824 (Minn. 1995) (holding that the scope of an arbitrator’s authority is a matter of contract interpretation).

either law or fact in the absence of fraud, mistake in applying his own theory, misconduct, or other disregard of duty.” *State, Office of State Auditor v. Minn. Ass’n of Prof’l Emps.*, 504 N.W.2d 751, 754 (Minn. 1993) (quotation omitted). While we do not necessarily see any error in the arbitrator’s interpretation of the declaration or application of the law, we note that, even if we accepted Raisch’s argument that the arbitrator erred in these respects, the arbitrator would not have exceeded his powers. In other words, misapplication of the law is not a basis to vacate an arbitrator’s award and an appellate court “will not overturn an award merely because [it] may disagree with the arbitrators’ decision on the merits.” *See Seagate Tech., LLC v. W. Dig. Corp.*, 854 N.W.2d 750, 761 (Minn. 2014) (quotation omitted).

We also observe that federal courts, when addressing the parallel provision in the Federal Arbitration Act, have taken the same approach regarding an appellate court’s limited scope of review regarding whether the arbitrator exceeded his powers. The Eighth Circuit has explained that, “[e]ven if the court is convinced that the arbitrator committed serious error,” it must confirm the arbitration award “so long as the arbitrator is even arguably construing or applying the contract and acting within the scope of his authority.” *Gas Aggregation Servs., Inc. v. Howard Avista Energy, LLC*, 319 F.3d 1060, 1064 (8th Cir. 2003) (quotation omitted). And the United States Supreme Court has stated the issue even more bluntly, holding that an arbitrator’s grave legal error is not a basis to vacate the award:

All we say is that convincing a court of an arbitrator’s error—even his grave error—is not enough. So long as the arbitrator was “arguably construing” the contract—which this one was—

a court may not correct his mistakes under § 10(a)(4). The potential for those mistakes is the price of agreeing to arbitration. As we have held before, we hold again: “It is the arbitrator’s construction of the contract which was bargained for; and so far as the arbitrator’s decision concerns construction of the contract, the courts have no business overruling him because their interpretation of the contract is different from his.” The arbitrator’s construction holds, however good, bad, or ugly.

Oxford Health Plans LLC v. Sutter, 569 U.S. 564, 572-73, 133 S. Ct. 2064, 2070-71 (2013) (citations and quotations omitted). We consider this federal caselaw persuasive and believe that Minnesota courts have interpreted the state arbitration statute in the same way. We therefore reject Raisch’s argument that an arbitrator exceeds his authority if he erroneously applies the law.

Because the arbitrator decided issues that were within the scope of the declaration’s arbitration clause, he did not exceed his powers in a way that would allow the award to be vacated. The district court did not err by denying Raisch’s motion to vacate the arbitration award and by confirming the final award.

Affirmed.