

*This opinion is nonprecedential except as provided by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
A21-0551**

James Russell,
Respondent,

vs.

Cory T. Axelson,
Appellant.

**Filed December 27, 2021
Reversed
Klaphake, Judge ***

Goodhue County District Court
File No. 25-CV-20-428

David G. Keller, Grannis & Hauge, P.A., Eagan, Minnesota (for respondent)

Cory T. Axelson, Welch, Minnesota (pro se appellant)

Considered and decided by Segal, Chief Judge; Cochran, Judge; and Klaphake,
Judge.

NONPRECEDENTIAL OPINION

KLAPHAKE , Judge

After a court trial in this dispute involving the validity and enforceability of a
purported purchase agreement for the sale of real property, self-represented appellant

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

challenges the district court's order granting specific performance in favor of respondent and denying appellant's counterclaim for return of personal property. We reverse the district court's order granting specific performance in favor of respondent. But because appellant fails to adequately brief his challenge to the district court's order denying his counterclaim, we do not consider the merits of appellant's counterclaim argument.¹

DECISION

Appellant Corey Axelson argues that the district court erred by concluding his agreement with respondent James Russell is a valid and enforceable purchase agreement for the sale of land.

We review the district court's interpretation of contracts de novo. *Bus. Bank v. Hanson*, 769 N.W.2d 285, 288 (Minn. 2009) (holding that contractual interpretation is a question of law); *Fin Ag, Inc. v. Hufnagle, Inc.*, 720 N.W.2d 579, 584 (Minn. 2006) (reviewing legal questions de novo). Likewise, whether an agreement constitutes an enforceable contract is a question of law which we review de novo. *Mohrenweiser v. Blomer*, 573 N.W.2d 704, 706 (Minn. App. 1998), *rev. denied* (Minn. Feb. 19, 1998).

“[T]he primary goal of contract interpretation is to determine and enforce the intent of the parties.” *Motorsports Racing Plus, Inc. v. Arctic Cat Sales, Inc.*, 666 N.W.2d 320, 323 (Minn. 2003). When the words of a contract are unambiguous, those words are given

¹ This court may decline to reach issues that are inadequately briefed. *State, Minn. Pollution Control Agency v. Modern Recycling, Inc.*, 558 N.W.2d 770, 772 (Minn. App. 1997). An assignment of error in a brief based on “mere assertion” and not supported by argument or authority is waived unless prejudicial error is obvious on mere inspection. *Schoepke v. Alexander Smith & Sons Carpet Co.*, 187 N.W.2d 133, 135 (Minn. 1971).

their plain and ordinary meaning. *Id.* But when the meaning of a contract is ambiguous because its language is “reasonably susceptible of multiple interpretations,” parol evidence outside the wording of the contract may be examined to determine the parties’ mutual intent. *Untiedt v. Grand Labs., Inc.*, 552 N.W.2d 571, 574 (Minn. App. 1996), *rev. denied* (Minn. Oct. 15, 1996). Parol evidence cannot be used to contradict the express terms of a contract but can be used for interpretation. *See Anchor Cas. Co. v. Bird Island Produce, Inc.*, 82 N.W.2d 48, 55 (Minn. 1957). The issue of whether a contract is ambiguous is a question of law, which we review de novo. *Carlson v. Allstate Ins. Co.*, 749 N.W.2d 41, 45 (Minn. 2008).

Language in the first part of the challenged document references a purchase agreement:

I, [appellant] and [respondent] enter into an agreement for the *purchase of land* owned by [appellant] which there are no mortgages on the land. 120 acres at \$1,000 per acre.

(Emphasis added.) This part of the agreement asserts an intent to enter into a purchase agreement and sets forth the purchase price. Read in isolation, this part is an unambiguous agreement for the sale of land. However, when we consider the context of the entire contract, deriving the parties’ intent from the whole document rather than individual clauses, the contract becomes ambiguous. *See Country Club Oil Co. v. Lee*, 58 N.W.2d 247, 249 (Minn. 1953).

The second part of the agreement states

[Respondent] is *putting down a refundable \$11,200* on February 27, 2019, to be *secured by [appellant’s] Kubota tractor M5040 as collateral*. If [appellant] sells said tractor,

the entire proceeds to [respondent] and will *refund the balance*.
Details of purchase will be finalized in the coming months.
This contract expires one year from today, February 27, 2019.

(Emphasis added.) Appellant argues that language requiring him to secure respondent's \$11,200 with collateral indicates a contract for a loan, not the purchase of land. We agree.

Generally, the verb "collateral" is defined as "property acceptable as security for a loan or other obligation." *The American Heritage Dictionary of the English Language* 362 (5th ed. 2018). And "secured" is defined as "to guard from danger or risk of loss." *Id.* at 1585. Pursuant to the agreement then, the parties intended appellant's tractor to guard respondent's risk of losing \$11,200. Effectively, respondent's \$11,200 is a loan. This reading is also supported by language that respondent's \$11,200 is "refundable," and that appellant could sell his collateral-tractor and "refund" respondent "the balance." Under those terms, respondent is obligated to loan \$11,200 to appellant, and appellant is obligated to repay the loan. *Neither party is bound to purchase or sell the property.*

To create an enforceable contract, it is not necessary for the parties to agree to every term; rather the law requires that the parties' intent as to the fundamental terms be determined with reasonable certainty. *Hill v. Okay Constr. Co.*, 252 N.W.2d 107, 114 (Minn. 1977).

It is a fundamental rule of law that an alleged contract which is so vague, indefinite, and uncertain as to place the meaning and intent of the parties in the realm of speculation is void and unenforceable. Consequently, where substantial and necessary terms are specifically left open for future negotiation, the purported contract is fatally defective. On the other hand, the law does not favor the destruction of contracts because of indefiniteness, and if the terms can be reasonably ascertained

in a manner prescribed in the writing, the contract will be enforced.

King v. Dalton Motors, Inc., 109 N.W.2d 51, 52-53 (Minn. 1961). When an agreement is not intended to be the complete and final agreement of the parties, it is not enforceable. *Lindgren v. Clearwater Nat'l Corp.*, 517 N.W.2d 574, 574 (Minn. 1994) (mem.).

In *Mohrenweiser*, this court found that the parties' written agreement for the purchase of a farm was an "unenforceable agreement to agree in the future." 573 N.W.2d at 707. In finding the agreement unenforceable, this court first noted that the agreement only listed the approximate acreage for purchase, price per acre, down payment, and "a few other purchase terms." *Id.* This court then pointed to language in the agreement, finding that the following two phrases depicted "future actions and agreements between the parties": (1) "outlining the terms of a future transaction regarding the purchase of a parcel of land" and (2) "the parties agree to proceed forward with a formal agreement." *Id.*; see also *Hansen v. Phillips Beverage Co.*, 487 N.W.2d 925, 927 (Minn. App. 1992) (holding parties' agreement to "nonbinding offer" was an unenforceable letter of intent to negotiate in good faith in future).

Here, the agreement states that "[d]etails of purchase will be finalized in the coming months." Generally, "details" is defined as "1. [The] individual part[s] or item[s]; [the] particular[s]. . . . 2. [The] particulars considered individually and in relation to a whole." *American Heritage*, *supra*, at 493. And "finalized" is defined as "To put into final form; complete." *Id.* at 659. This language clearly shows the "purchase agreement" is not final

as to a sale of real estate. Rather, aside from the parties' loan agreement, it constitutes an unenforceable agreement to agree to the purchase of land in the future.

Other parol evidence supports our interpretation. In a series of text messages between appellant and respondent, which were admitted at trial, appellant asked respondent if he was interested in purchasing some hunting land from appellant. Respondent replied: "Yes I am. What are you looking at?" Appellant eventually replied: "Here's my problem. I have to pay on my back property taxes soon. I thought I could come up with it, but things were slow at the bus company. If I don't meet the deadline, they're going to take all the property. I need like \$9000." Importantly, respondent then asked: "When is the deadline? What do you want to sell?" and appellant replied: "Thursday. *We can work out the details once the crisis is over.*" Respondent answered that he had the money and would "need some details to sell [his] wife." After that exchange, the parties met at Burger King to draft the agreement. Both parties signed the agreement at that time, and respondent wrote appellant a check for \$11,200 with the words "property tax" in the subject line. At trial, respondent testified that after the parties' Burger King meeting, respondent tried to reach appellant multiple times to "finalize the agreement."

Appellant needed money, having only two days to pay property taxes on his *entire* property. Respondent needed written assurances that if he gave appellant money, appellant would finalize a purchase agreement for the sale of *some* of his land; or, at a minimum, assurances that respondent could recoup his money. The check was therefore not a down payment. There is no mutual obligation regarding the purchase and sale of real estate.

In sum, the parties formed a contract for a loan and an unenforceable agreement to agree in the future.

Reversed.