STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0635

The Townhomes of Raspberry Ridge Homeowners Association, Inc.,
Respondent,

vs.

Charles Stuurop Enterprises, Inc. d/b/a Signature Select Contracting, et al.,
Appellants,

Daniel Kelly d/b/a ICE Co., et al.,
Defendants.

Filed December 5, 2022
Affirmed in part, reversed in part, and remanded
Reilly, Judge

Ramsey County District Court
File No. 62-CV-19-2557

Finn S. Jacobsen, Smith Jaden Johnson, PLLC, Bloomington, Minnesota (for respondent)

Daniel S. Schleck, Kristy A. Fahland, Molly Hamilton Cawley, Messerli & Kramer P.A., Minneapolis, Minnesota (for appellants)

Considered and decided by Larkin, Presiding Judge; Reilly, Judge; and Florey, Judge.*

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

NONPRECEDENTIAL OPINION

REILLY, Judge

Following a court trial, appellant-contractor and its principal challenge the judgment for respondent-homeowners-association on its promissory-estoppel and unjust-enrichment claims. Appellants argue that the district court (1) misapplied the elements of promissory estoppel, (2) erred in determining that they were liable to respondent on its unjust-enrichment claim, and (3) abused its discretion in its evidentiary rulings. We agree that the district court misapplied the law on promissory estoppel and we reverse and remand that portion of the district court's order. We otherwise affirm.

FACTS

Respondent The Townhomes of Raspberry Ridge Homeowners Association (the Association) is a nonprofit corporation that provides maintenance, preservation, and architectural control over the property known as the Townhomes of Raspberry Ridge (the property). In May 2015, the property was damaged by a hailstorm and wind. The Association has an insurance policy through American Family Insurance Company (American Family), which provides coverage for the property's roofs and windows. In May 2016, the Association made a claim with American Family under its insurance policy for the damage caused by the storm. American Family valued the replacement cost of the damage to the property at $756,239.21 and paid the Association $599,889.71 for its damages. According to the insurance policy, the remaining balance of $146,349.50 in depreciation—which represents the difference between the amount paid by American Family and the replacement cost value of the claims as agreed to by American Family—

would not be paid until the repair work was completed. The Association's insurance policy with American Family contains a two-year limitation to bring suit.

In the fall of 2016, the Association's board of directors met with appellant Signature Select to discuss the Association's needs. Signature Select is a general contractor. Appellant Charles Stuurop attended the meeting on behalf of Signature Select.[1] Stuurop is the sole shareholder and owner of Signature Select. The Association's property manager testified that the Association reached out to Signature Select because it "believed that having a contractor with the adjustor to point out the damage was valuable to the [A]ssociation." According to an Association board member, Signature Select and Stuurop "passed themselves off as experts capable of navigating the insurance industry." The property manager testified that Signature Select "pretty much promised that they could get the [A]ssociation a claim covering all of the buildings for . . . full replacement of windows and possibly roofs, depending on whether or not they could find significant damage on the roofs." She understood that Signature Select "would do all of the work that the insurance company had adjusted for, at the price that the insurance company agreed to." The Association hired Signature Select following the fall 2016 meeting. The Association paid Signature Select $100,000 as a down payment for construction work to be completed.

In December 2017, the Association learned that Signature Select was having financial difficulties. The Association invited Stuurop to a board meeting to discuss the

[1] Defendant Daniel Kelly also attended the meeting. Kelly is the chief operating officer of Signature Select. Kelly and Stuurop also operate a joint venture known as Ice Co., which serves as a subcontractor for Signature Select.

construction work. According to the property manager, Stuurop explained that the company would "probably not" be able to begin the repair work as planned. The board member also testified that he believed Signature Select would be unable to go forward with the work. At the same time, according to Stuurop, he told the board of directors that Signature Select was not having any financial difficulties and could continue the project. Following this meeting, the board of directors decided to end their relationship with Signature Select and request the return of the $100,000 payment.

In January 2019, the Association formally ended its relationship with Signature Select and demanded the return of their $100,000 payment. Signature Select refused to return the $100,000 payment. Signature Select also did not do any construction work at the property. Nor did American Family pay the balance of $146,349.50 in depreciation between the amount paid by American Family and the replacement cost value of the claims because the construction work was never completed.

The Association filed a complaint against Signature Select, ICE Co., Stuurop, and Kelly alleging that the defendants agreed to repair the damage caused by the hailstorm "at a price agreeable to both [the defendants] and the insurance company with no additional cost to [the Association] except the [d]eductible." The Association asserted claims for promissory estoppel and unjust enrichment, among other causes of action. The district court held a court trial in August 2021. Following trial, the district court found that Signature Select was liable to the Association under a theory of unjust enrichment for $100,000 and that Signature Select and Stuurop were also liable to the Association under a theory of promissory estoppel for $146,349.50.

Signature Select and Stuurop now appeal.

DECISION

I. Promissory Estoppel

Signature Select and Stuurop challenge the district court's determination that they are liable to the Association for promissory estoppel. "Promissory estoppel is an equitable doctrine that implies a contract in law where none exists in fact."[2] *Javinsky v. Comm'r of Admin.*, 725 N.W.2d 393, 398 (Minn. App. 2007). To establish a claim of promissory estoppel, a plaintiff must prove that (1) "a clear and definite promise was made," (2) "the promisor intended to induce reliance and the promisee in fact relied to his or her detriment," and (3) "the promise must be enforced to prevent injustice." *Martens v. Minnesota Mining & Mfg. Co.*, 616 N.W.2d 732, 746 (Minn. 2000); *see also Faimon v. Winona State Univ.*, 540 N.W.2d 879, 882 (Minn. App. 1995) ("The Minnesota Supreme Court has identified three prongs of the doctrine: promise, reliance and injustice."). If the facts are not in dispute, we will review whether the facts "rise to the level of promissory estoppel" as a question of law. *Id.* But where, as here, the matter proceeds to a trial on the merits, we review the factual findings for clear error and we will not set them aside unless we are left with a firm conviction that a mistake was made. *Rasmussen v. Two Harbors Fish Co.*, 832 N.W.2d 790, 797 (Minn. 2013). Ultimately, we review a district court's decision whether

[2] The doctrine of promissory estoppel "only applies where no contract exists." *Banbury v. Omnitrition Int'l, Inc.*, 533 N.W.2d 876, 881 (Minn. App. 1995). The parties stipulated that in November 2016, the Association signed a document it believed was a contract with Signature Select. But Stuurop denied signing the contract on behalf of Signature Select. The district court determined that a valid contract did not exist between the parties.

to grant equitable relief for an abuse of discretion. *Minn. Laborers Health & Welfare Fund v. Granite Re, Inc.*, 844 N.W.2d 509, 513 (Minn. 2014).

Signature Select and Stuurop claim the district court applied only the first two elements—promise and reliance—but did not analyze the injustice element. We agree. The district court noted, "Under Minnesota law, the elements of promissory estoppel include showing that there was (1) a clear and definite promise and (2) the promisor intended to induce reliance and this reliance occurred." But the district court did not specifically recognize or address the injustice prong. The district court determined that the promise and reliance prongs were satisfied and that "[b]ecause of [Signature Select and Stuurop's] breach, [the Association] was unable to collect depreciation funds from its insurance company in the amount of $146,349.50." The district court found that "the inability to collect the value of the depreciation from American Family were direct and natural damages caused by the reliance on [Signature Select and Stuurop's] promise." But, despite these findings, the district court did not analyze whether the promise must be enforced to prevent an injustice.

The Association acknowledges that the district court did not use the term "injustice" in its order but contends that the district court considered this element because it relied on *Cohen v. Cowles Media Co.*, 479 N.W.2d 387, 392 (Minn. 1992). *Cohen* analyzed the third step in a promissory estoppel analysis—whether a promise must be enforced to prevent an injustice—and noted that, "[f]or promissory estoppel, the remedy granted for breach may be limited as justice requires." *Id.* at 392 (quotation omitted). Here, the district court cited *Cohen* for the proposition that, "Under a theory for promissory estoppel, the remedy for a

breach of the relied upon promise are the direct and natural damages directly caused by the reliance on the promise." The Association argues that the district court's citation to *Cohen* reflects that it considered the injustice prong when deciding to award damages. But this argument conflates monetary damages with injustice and is not persuasive. Although the district court's order discussed the Association's damages, it does not show that the district court considered the injustice prong.

In sum, the district court neither acknowledged, nor addressed, the injustice prong of the promissory-estoppel test. This court cannot meaningfully review the issue without the district court's analysis. We therefore reverse and remand to the district court with instructions to consider the third element of the Association's promissory-estoppel claim.

II. Unjust Enrichment

Signature Select and Stuurop challenge the district court's determination that they are liable to the Association for unjust enrichment. "Unjust enrichment is an equitable doctrine that allows a plaintiff to recover a benefit conferred upon a defendant when retention of the benefit is not legally justifiable." *Caldas v. Affordable Granite & Stone, Inc.*, 820 N.W.2d 826, 838 (Minn. 2012). To prevail on an unjust-enrichment claim, a plaintiff must establish "(1) a benefit conferred; (2) the defendant's appreciation and knowing acceptance of the benefit; and (3) the defendant's acceptance and retention of the benefit under such circumstances that it would be inequitable for him to retain it without paying for it." *Dahl v. R.J. Reynolds Tobacco Co.*, 742 N.W.2d 186, 195 (Minn. App. 2007), *rev. granted* (Minn. Feb. 27, 2008) *and ord. granting rev. vacated* (Minn. Jan. 20, 2009). We defer to the district court's findings of fact unless they are clearly erroneous,

although we do not defer to the district court on purely legal questions. *Friend v. Gopher Co.*, 771 N.W.2d 33, 37 (Minn. App. 2009).

The first two unjust-enrichment factors are not at issue on appeal. Instead, Signature Select and Stuurop challenge the district court's determination on the third factor: that it is inequitable for them to retain the benefit of the money received from the Association. As for the third factor, "[u]njust enrichment claims do not lie simply because one party benefits from the efforts or obligations of others, but instead it must be shown that a party was unjustly enriched in the sense that the term 'unjustly' could mean illegally or unlawfully." *ServiceMaster of St. Cloud v. GAB Business Servs., Inc.*, 544 N.W.2d 302, 306 (Minn. 1996) (quotation omitted). Minnesota courts have extended unjust enrichment to apply if a defendant's retention of a benefit is "morally wrong." *Schumacher v. Schumacher*, 627 N.W.2d 725, 729 (Minn. App. 2001).

The district court determined that Stuurop could "not receive compensation for negotiating an insurance claim because he is not a public adjuster." Minnesota Statutes section 72B.03 (2020) requires public adjusters to be licensed. Minn. Stat. § 72B.03, subd. 1(a). A public adjuster is any person who, for compensation, "acts or aids, . . . on behalf of an insured in negotiating for, or effecting the settlement of, a claim for loss or damage covered by an insurance contract." Minn. Stat. § 72B.02, subd. 6 (2020). The district court determined that "[n]one of the Defendants are licensed public adjustors" and, as such, cannot receive compensation for negotiating an insurance claim with American Family.

Signature Select and Stuurop claim the Association did not plead this issue in its complaint and failed to put them on notice. We are not persuaded. "Minnesota is a notice-

pleading state and does not require absolute specificity in pleading, but rather requires only information sufficient to fairly notify the opposing party of the claim against it." *DeRosa v. McKenzie*, 936 N.W.2d 342, 346 (Minn. 2019). "[T]he pleading of broad general statements that may be conclusory is permitted." *Id.* Further, "[i]ssues litigated by either express or implied consent are treated as if they had been raised in the pleadings." *Septran, Inc. v. Indep. Sch. Dist. No. 271*, 555 N.W.2d 915, 919 (Minn. App. 1996) (quotation omitted), *rev. denied* (Minn. Feb. 26, 1997).

The record reveals that the parties litigated this issue at trial. The Association suggested that it intended to show that Stuurop was not a public adjustor and therefore could not be compensated for increasing the value of an insurance claim. The Association's counsel asked Stuurop why he believed his company earned $100,000 from the Association. Stuurop responded, "I would say by getting the money that we got them for their claim." The Association's counsel inquired, "So by negotiating the insurance claim, you believe you earned $100,000?" Stuurop responded, "Yes." Stuurop testified that he believed Signature Select had a right to keep the $100,000 payment as the fee for negotiating the insurance payments from American Family. The Association's counsel asked Stuurop if he had "produced any invoice to that end," and Stuurop responded, "No." The Association's counsel asked Stuurop if he "produced any documentation as to how that number was calculated." Again, Stuurop replied, "No." This testimony was relevant to the Association's unjust-enrichment claim and was expressly litigated at trial.

Even without this determination, the district court found that it would be inequitable for Signature Select and Stuurop to retain the $100,000 payment received from the

Association. The district court determined that the Association "paid [Signature Select] $100,000 as a down payment for construction work to be completed as part of the insurance claim." But the district court found that Signature Select "did not resolve the insurance claim with American Family and did not do any construction to repair the damage from the storm." The district court also found that Signature Select did not return the $100,000 payment to the Association.

These factual findings are supported in the record. The Association's property manager and board member both testified that the Association paid $100,000 to Signature Select and Stuurop for construction work to repair the damage caused by the storm. During the trial, the Association's counsel asked the property manager if Signature Select had done "any work" or "earn[ed] any money" consistent with the parties' agreement. She replied, "None at all." The Association's counsel also asked the board member if Signature Select and Stuurop did any work to earn money under the parties' agreement. He replied, "They performed no work that would be related to the [agreement]." He also stated that Signature Select did not fulfill the promises they made at the initial meeting with the Association.

Given this factual record, the district court did not err in determining that it would be inequitable to permit Signature Select and Stuurop to retain the benefit of the $100,000 payment. We therefore affirm the district court's determination that Signature Select is liable to the Association for unjust enrichment.

III. Evidentiary Rulings

Signature Select and Stuurop challenge the district court's evidentiary rulings. Relevant evidence is generally admissible. Minn. R. Evid. 402. Evidence is relevant if it

offers "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Minn. R. Evid. 401. A district court may exclude evidence based on materiality, lack of foundation, remoteness, relevancy, or evidence which is cumulative. *Johnson v. Washington County*, 518 N.W.2d 594, 601 (Minn. 1994). We review a district court's evidentiary rulings for an abuse of discretion. *Goldman v. Greenwood*, 748 N.W.2d 279, 281-82 (Minn. 2008). "In the absence of some indication that the [district] court exercised its discretion arbitrarily, capriciously, or contrary to legal usage, the appellate court is bound by the result." *Kroning v. State Farm Auto. Ins. Co.*, 567 N.W.2d 42, 46 (Minn. 1997).

Recoverable Depreciation. Signature Select and Stuurop claim the district court abused its discretion by denying their motion in limine to preclude the Association from introducing evidence related to alleged damages arising from recoverable depreciation. They argued that any such evidence would be irrelevant, immaterial, and unfairly prejudicial. The district court denied the motion and conveyed it would "hear testimony about recoverable depreciation in this trial and then determine at the end what may be appropriate for a final ruling."

We discern no abuse of discretion in this decision. The Association alleged that Signature Select and Stuurop failed to make the repairs required for payment of recoverable depreciation. Evidence related to recoverable depreciation is therefore relevant and admissible to the Association's claim that its damages are the natural and foreseeable consequences of relying on Signature Select and Stuurop's promises. The district court's

decision was not arbitrary, capricious, or contrary to legal usage. As a result, the district court did not abuse its discretion by denying Signature Select and Stuurop's motion in limine.

Transcript. Signature Select and Stuurop also object to the district court's decision to exclude a transcript taken from the property manager's testimony in an unrelated lawsuit. The Association sought to exclude testimony related to a June 2017 hailstorm. The Association claimed that Signature Select and Stuurop did not produce this document "until the eve of trial." The district court granted the Association's motion to exclude "unproduced testimony that wasn't provided in discovery" related to the property manager's testimony. Again, we discern no abuse of discretion. The property manager testified and was available to answer any relevant questions. Additionally, the district court specifically stated that it would permit Signature Select and Stuurop to use the transcript for impeachment purposes. The district court stated, "[the transcript is] admissible for the purposes of impeachment . . . [s]o certainly you can bring that up as well." It does not appear that Signature Select and Stuurop used the transcript for impeachment at any point during the trial. For these reasons, the district court did not abuse its discretion in its evidentiary ruling.

Affirmed in part, reversed in part, and remanded.