STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0892

Steven D. Woodke, et al.,
Appellants,

vs.

Travis Bracha, et al.,
Respondents.

Filed December 12, 2022
Affirmed
Connolly, Judge

Stevens County District Court
File No. 75-CV-20-315

Justin R. Anderson, Elbow Lake, Minnesota (for appellants)

Laura J. Busian Schmidt, Leuthner & Huether, Ltd., Morris, Minnesota (for respondents)

Considered and decided by Johnson, Presiding Judge; Connolly, Judge; and Jesson, Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

In this real-property dispute, appellants challenge the summary judgment granted to respondents on the four affirmative defenses asserted by appellants in their reply to respondents' quiet-title counterclaim. Because we see no error in the grant of summary judgment, we affirm.

FACTS

Cecelia Strand owned real property that included two lots, one of which, Lot B, about 3.3 acres, was located completely within the other, Lot A, about 16.6 acres. In 1998, Strand had a survey done to create an easement over Lot B for access to Lot A. Strand then conveyed fee simple to the two lots to Norman and Joyce Meyer (the Meyers).

In 2000, the Meyers sold their interest in the lots to respondents Travis and Christina Bracha with a deed that did not mention the easement. Respondents have possessed the lots and paid real estate taxes on them for the last 22 years.

In 2011, Strand conveyed another piece of property adjacent to Lot B, but explicitly excluding Lot A, to appellants Steven, Loren, Derek, and Darin Woodke. Strand died in 2012.

In 2017, the parties began disputing appellants' access to their property through Lot B, but their efforts to resolve the dispute were unsuccessful. On December 19, 2019, appellants served respondents with a complaint for declaratory judgment affirming appellants' right to the use of Lot B. On December 27, 2019, respondents served an answer and a quiet-title counterclaim on appellants.

On December 20, 2020, appellants' action was dismissed with prejudice because they had not filed the action with the court. On December 28, 2020, respondents filed their answer and quiet-title counterclaim with the court. On January 4, 2021, appellants served and filed their reply to respondents' counterclaim, pleading four affirmative defenses: failure to state a claim, estoppel, waiver, and laches. Appellants included the complaint in

their December 2019 declaratory-judgment action as a counterclaim, although that action had been dismissed with prejudice.

In June 2021, respondents served and filed motions to dismiss or for summary judgment. In October 2021, appellants served and filed their response to appellants' motions and raised five additional affirmative defenses: mistake, clerical error, error, prescriptive easement, and easement by necessity.

Following a hearing on the parties' motions, the district court: (1) found that Strand's 2011 purported conveyance of the property to appellants was invalid because she had previously, in 1998, conveyed all her interest in the property to the Meyers and therefore had no interest to convey; (2) granted respondents' motion to dismiss appellants' declaratory-judgment action because it had already been dismissed under Minn. R. Civ. P. 5.04(a) ("Any action that is not filed with the court within one year of commencement against any party is deemed dismissed with prejudice against all parties unless the parties within that year sign a stipulation to extend the filing period."); (3) concluded that res judicata did not revive appellants' declaratory-judgment claims after the dismissal of the declaratory-judgment action; (4) addressed and denied the four affirmative defenses—failure to state a claim, estoppel, waiver, and laches—raised in appellants' January 2021 answer to respondents' counterclaim; (5) declined to address the five affirmative defenses—mistake, clerical error, error, prescriptive easement, and easement by necessity—that appellants raised in their October 2021 response to respondents' motions; (6) granted respondents' motion for summary judgment on their counterclaim to quiet title; and (7) granted respondents' request for costs, disbursements, and attorney fees.

On appeal, appellants argue that res judicata did not preclude them from reasserting the claims in their original declaratory-judgment action despite the dismissal of that action and that the district court erred in granting respondents' motion for summary judgment.[1] Because we agree that res judicata precluded appellants from reasserting their declaratory-judgment claims and see no error in the summary judgment, we affirm.

DECISION

I. Answer to Counterclaim

With their January 4, 2021, answer to respondents' counterclaim, appellants also filed for the first time their "Action for Declaratory Judgment" and "Summons in a Declaratory Judgment Action." Both were dated December 12, 2019, were served on respondents on December 19, 2019, and were dismissed on December 20, 2020. The district court found that res judicata barred the consideration of claims that had been dismissed and did not address them.

[1] Appellants do not dispute the dismissal of their declaratory-judgment action for failure to timely file the complaint under Minn. R. Civ. P. 5.04(a), but they argue for the first time that respondents' failure to file their answer and counterclaim within a year of receiving appellants' complaint deprived the district court of subject-matter jurisdiction. But rule 5.04(a) does not implicate the district court's subject-matter jurisdiction, which is the court's power to hear and decide particular classes of cases and depends on the scope of constitutional and statutory grants of authority. *McCullough & Sons, Inc. v. City of Vadnais Heights*, 883 N.W.2d 580, 585 (Minn. 2016); *see also* Minn. Const. art. VI, § 3 (granting district court original jurisdiction in civil and criminal cases); Minn. Stat. § 484.01 (2020) (providing that district courts have jurisdiction in "all civil actions within their respective districts."). "Instead, [r]ule 5.04(a) is a procedural tool [the supreme court] promulgated to aid the orderly and efficient administration of justice." *Cole v. Wutzke*, 884 N.W.2d 634, 638 (Minn. 2016).

Appellants argue that, by including their declaratory-judgment action as a counterclaim with their answer to respondents' counterclaim, they properly served and filed that action and did not violate res judicata.

> Res judicata precludes parties from raising subsequent claims in a second action when: (1) the earlier claim involved the same set of factual circumstances; (2) the earlier claim involved the same parties or their privities; (3) there was a final judgment on the merits; (4) the estopped party had a full and fair opportunity to litigate the matter. Res judicata applies equally to claims actually litigated and to claims that could have been litigated in the earlier action.

Brown-Wilbert, Inc. v. Copeland Buhl & Co., 732 N.W.2d 209, 220 (Minn. 2007) (quotation and citation omitted).

Appellants concede that "it might appear that [they] cannot bring their counterclaim," i.e., their former declaratory-judgment action, but they rely on *Erickson v. Comm'r of Human Servs*., 494 N.W.2d 58, 61 (Minn. App. 1992) (holding that the application of res judicata may be qualified or rejected when its application would contravene an overriding public policy) to argue that the "public policy" exception to res judicata applies. The district court rejected this argument:

> [Appellants are] unable to access their land if the easement is not granted; [they argue that] therefore public policy considerations allow for their cause of action under these circumstances as an exception to res judicata.
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> . . . .
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> . . . [Appellants'] arguments . . . focused on the individual's plight, or the private citizen policy that was fact specific to [appellants'] situation and not a public policy exception.

> . . . [Appellants] have failed to show what public policy reason there is here that is an allowable exception to the doctrine of res judicata. This Court finds no over-arching public policy that is triggered that would allow the claim to proceed.

The district court did not abuse its discretion in concluding that res judicata applied to preclude appellants from raising their declaratory-judgment claims after those claims had been dismissed.

II. Summary Judgment

Summary judgment is appropriate where there are no genuine issues of material fact and one party is entitled to judgment as a matter of law. Minn. R. Civ. P. 56.01. Once the moving party has established that summary judgment is appropriate, it is not enough for the opposing party to "simply show that there is some metaphysical doubt as to the material facts." *Carlisle v. City of Minneapolis*, 437 N.W.2d 712, 715 (Minn. App. 1989). This court reviews the grant of a summary-judgment motion de novo to determine whether there is a genuine issue of material fact or an erroneous application of the law. *Montemayor v. Sebright Prods., Inc*., 898 N.W.2d 623, 628 (Minn. 2017).

As to the scope of the summary judgment, the district court noted that "the only pleading before this Court involving [appellants is] the [four] affirmative defenses they pled in their answer [to respondents' counterclaim]," i.e., failure to state a claim upon which relief could be granted, estoppel, waiver, and laches.[2]

[2] The district court declined to address the five affirmative defenses raised for the first time by appellants in their responsive memorandum to respondents' summary-judgment motion, i.e., error, clerical error, mistake, easement by necessity, and easement by prescription, because addressing those issues would prejudice respondents, who "were not able to

A. Failure to State a Claim

A quiet-title claim requires that (1) the party making it state sufficient facts to support the reasonable inference that the party is in possession of the property and (2) the opposing party claiming a right or title to the property has no such right or title. *Armas v. Fifth Third Bancorp*, 315 F. Supp. 3d 1118, 1123 (D. Minn. 2018). Respondents produced an affidavit from a real property law specialist who had reviewed the survey plat of Lots A and B, the warranty deed from Strand to the Meyers, the warranty deed from the Meyers to respondents, and the contract for deed from Strand to appellants. The specialist determined that:

> 11. The 1998 Strand to Meyer deed failed to reserve the Access Easement over Lot B for the benefit of any land that continued to be owned by Cecelia Strand at the time of the execution, delivery, and filing of the 1998 Strand to Meyer Deed . . . [and] does not contain any language evidencing that the conveyance of said Lot A was "SUBJECT TO" an access easement over Lot B for the benefit of any lands owned or retained by Cecelia Strand or that an access easement over Lot B was "RESERVED UNTO" lands owned or retained by [her].
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> 12. The 2000 Meyer to [respondents] Deed conveyed fee simple title in and to Lot A (which includes the Access Easement area contained within Lot B) to [respondents] . . . [and it] does not contain any language suggesting that the conveyance of Lot A was "SUBJECT TO" an access easement across Lot B for any other lands.
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> 13. As of October 14, 2011, the date the 2011 Strand to [appellants] contract was signed and recorded, Cecelia Strand

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engage in proper discovery on these defenses" and or otherwise respond to them. Appellants nevertheless argue on appeal that "there is a genuine issue of material fact as to whether [they] are entitled to an easement by necessity." Like the district court, we decline to address that argument as not properly before us. *See Thiele v. Stich,* 425 N.W.2d 580, 582 (Minn. 1988).

> did not have the power to convey Lot B or to grant an access easement over Lot B to [appellants] because [she] had already conveyed away to [the Meyers] all right, title, and interest which [she] owned in said Lot B by virtue of the 1998 Strand to Meyer Deed.
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> 14. The 2011 Strand to [appellants] Contract specifically excepts Lot A from the lands affected by such Contract. Said Lot A also contains Lot B.
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> 15. Based upon the 1998 Strand to Meyer Deed and the 2000 Meyer to [respondents] Deed, [respondents] are the owners in fee simple, as joint tenants, of Lots A and B. . . .
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> 16. As of the execution, delivery, and recording of the 1998 Strand to Meyer Deed, Cecelia Strand did not own any right, title or interest in or to Lot B or an access easement over Lot B and consequently [she] did not and does not have the power to sell, transfer, or convey to [appellants] any interest in or easement across Lot B.

The district court found that these facts support the reasonable inference that respondents are in possession of Lots A and B and that appellants "have not produced evidence to establish [that respondents] failed to properly plead their claim to quiet title."

Appellants claim there is a genuine issue of material fact as to Strand's intent when she conveyed Lots A and B to the Meyers and when she entered into a contract for deed with them and that Strand's intent is relevant because the documents are ambiguous. They argue that the Strand-Meyer contract would not have referenced both Lot A and Lot B "if it was [Strand's] intent to convey the entirety of Lot A, inclusive of all of Lot B." But Strand has been dead for ten years, and appellants provide nothing from which her intent could be inferred. The attorney who prepared both the Strand-Meyer document and the Strand-appellants document was not deposed and did not provide an affidavit; none of

Strand's family members provided evidence. The surveyor whose email appellants rely on explicitly stated that he was not an attorney and it would be good to get an attorney's opinion; he did provide an expert opinion as to the accuracy of the survey. Appellants have done no more than create a metaphysical doubt as to Strand's intent.

Moreover, the conveyance documents themselves are not ambiguous. The fact that Strand had already conveyed Lot A and Lot B to the Meyers in 1998 meant that she no longer owned Lot B in 2011 when she purportedly conveyed it to appellants; therefore, the conveyance was moot, regardless of her intent.

B. Estoppel[3]

Equitable estoppel requires a plaintiff to show two things: first, that the defendant misrepresented or concealed a material fact; second, that the plaintiff relied on the misrepresentation or concealment and acted upon it with a detrimental result. *Lunning v. Land O'Lakes*, 303 N.W.2d 452, 459 (Minn. 1980). As the district court found, "[appellants] failed to show [that respondents] misrepresented a material fact. Any arguments are based upon suspected mistakes [in] prior deeds or the actual intent of the parties rather than on any misrepresentations or concealment." Thus, if appellants were claiming equitable estoppel, their claim fails. Moreover, they do not argue estoppel in their brief, and issues not argued in a brief are waived. *State v. Modern Recycling, Inc.*, 558 N.W.2d 770, 772 (Minn. App. 1997).

[3] The district court noted that appellants did not specify whether they were claiming collateral estoppel or equitable estoppel. It addressed equitable estoppel and equated appellants' collateral-estoppel argument with their exception-to-res-judicata argument.

C. Waiver

The district court noted that appellants "made no argument as to what claims [respondents] have waived. . . . There is no genuine dispute as to material fact on the affirmative defense asserted by [appellants] of waiver." Appellants do not refute this.

D. Laches

A claim of laches requires "such an unreasonable delay in asserting a known right, resulting in prejudice to others, as would make it inequitable to grant the relief prayed for." *Fetsch v. Holm*, 52 N.W.2d 113, 115 (Minn. 1952).

The district court found:

> 90. Here, the facts are not in dispute that [respondents] were conveyed Lots A and B absent the Access Easement in 2000.
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> 91. [Appellants] and [respondents] began the dispute as to [appellants'] access through Lot B in 2017, 2 years before service of the lawsuit and 3 years before [respondents] filed an answer and counterclaim.
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> 92. In between this time, the parties continued to try and work out a solution between themselves and eventually, with their respective attorneys, but [they] were not successful.
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> 93. As such, the delay on the controversy on the interest to the land was not unreasonable.
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> 94. Moreover, the Court has not been shown by [appellants] how they were prejudiced by [respondents'] Quiet Title Counterclaim. Therefore, there is no genuine dispute as to material fact on this affirmative defense.

Again, appellants offer no refutation.

The district court did not err in declining to address the claims raised in appellants' declaratory-judgment action that had been dismissed or in granting summary judgment to respondents.

Affirmed.