

*This opinion is nonprecedential except as provided by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
A24-1829**

Steven Van Kuyk,
Appellant,

vs.

Linda Steen, et al.,
Respondents.

**Filed July 21, 2025
Affirmed
Slieter, Judge**

Ramsey County District Court
File No. 62-CV-23-4190

Steven T. Appelget, Appelget Law Office, St. Paul, Minnesota (for appellant)

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Considered and decided by Slieter, Presiding Judge; Worke, Judge; and Bond,
Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

This appeal comes from the summary-judgment dismissal of appellant's complaint seeking a declaratory judgment that he is a partial owner in certain real property, which includes a house. Appellant also seeks a judgment for partition of the real property.

Because the district court properly determined that appellant had no vested property interest in the real property, dismissal of appellant's complaint was proper, and we affirm.

FACTS

This appeal arises from a property dispute between appellant Steven Van Kuyk and respondents Linda Steen¹ and Steen's daughter Kimberlee Philipson (daughter). The following facts derive from the record and are considered in the light most favorable to Van Kuyk as the nonmoving party.

Van Kuyk and Steen had been involved in an "ongoing romantic relationship since 1992." On October 29, 1997, Van Kuyk and Steen purchased the property as tenants in common, which is comprised of land and a house in a residential neighborhood. Van Kuyk and Steen shared, on an informal basis, payments for the property's mortgage as well as the utilities. On October 29, 2015, Van Kuyk, without consulting an attorney or tax professional, executed and had recorded a quitclaim deed transferring his one-half undivided interest in the property to Steen, because he believed it would be a tax benefit. In 2012, Steen was diagnosed with dementia which, when it progressed, caused her to move out of the home in 2021 and into an assisted-living facility.

In 2023, daughter was appointed Steen's guardian and conservator after a contested hearing involving Van Kuyk. That same year, daughter demanded that Van Kuyk vacate the property, claiming that Steen was the sole owner of the home. However, Van Kuyk

¹ Steen and her daughter were named defendants in this lawsuit. Steen died on March 30, 2024, after the commencement of the suit. The record reveals no amended pleadings to reflect this change. But, for clarity, we will refer to Steen by her last name and Philipson as daughter. When we are referring to both of them, we will refer to them as respondents.

did not leave the property. No changes in ownership occurred until Steen's death on March 30, 2024.

Respondents moved for summary judgment and dismissal of all claims which was granted by the district court. The district court determined that Van Kuyk undisputedly transferred his interest in the property to Steen on October 29, 2015, and that she remained the sole owner until her death. The district court also determined that Van Kuyk did not plead an equitable-estoppel-based claim to ownership and that, even if he had, there are no facts to indicate that he was induced to transfer his interest in the property based upon a promise from Steen.

Van Kuyk appeals.

DECISION

Van Kuyk challenges the summary-judgment dismissal of his claims against respondents, arguing that the district court erred when it dismissed appellant's claim that he is a part owner of the property and when it dismissed appellant's claim for partition.

We review a district court's "grant of summary judgment de novo to determine whether there are genuine issues of material fact and whether the district court erred in its application of the law." *Montemayor v. Sebright Prods., Inc.*, 898 N.W.2d 623, 628 (Minn. 2017) (quotation omitted); see Minn. R. Civ. P. 56.01. A material fact is one that will affect the outcome or result of the case. *Westfield Ins. Co. v. Wensmann, Inc.*, 840 N.W.2d 438, 450 (Minn. App. 2013), *rev. denied* (Minn. Feb. 26, 2014). "Mere speculation, without some concrete evidence, is not enough to avoid summary judgment." *Bob Useldinger & Sons, Inc. v. Hangsleben*, 505 N.W.2d 323, 328 (Minn. 1993). Appellate

courts “view the evidence in the light most favorable to the party against whom judgment was granted” *Fletcher Props., Inc. v. City of Minneapolis*, 947 N.W.2d 1, 9 (Minn. 2020) (quotation omitted). Summary judgment is inappropriate when reasonable minds could reach different conclusions based on the evidence presented. *DLH, Inc. v. Russ*, 566 N.W.2d 60, 69 (Minn. 1997).

Equitable Title

Van Kuyk asserts that, based upon promissory estoppel, the circumstances regarding his transfer of his interest in the property via the 2015 quitclaim deed demonstrate genuine issues of material fact, and therefore, summary-judgment dismissal was an error.

We first note, as did the district court, that Van Kuyk did not plead promissory estoppel in his complaint. A party is not entitled to relief for a claim not raised in the complaint. Generally, “litigants are bound [on appeal] by the theory or theories, however erroneous or improvident, upon which the action was actually tried below.” *Annis v. Annis*, 84 N.W.2d 256, 261 (Minn. 1957).

But even if we consider Van Kuyk’s equitable claim of an ownership interest in the property, his claim fails. To establish promissory estoppel, one must show that “1) a clear and definite promise was made, 2) the promisor intended to induce reliance and the promisee in fact relied to his . . . detriment, and 3) the promise must be enforced to prevent injustice.” *Martens v. Minn. Mining & Mfg. Co.*, 616 N.W.2d 732, 746 (Minn. 2000).

Van Kuyk points to no facts that demonstrate that he was induced by a promise from Steen to transfer his interest in the property to her. Instead, Van Kuyk points us to his own

affidavit in response to summary judgment which states that Steen “promised that we would stay together and share our home.”

First, a self-serving affidavit that contradicts earlier damaging testimony is not sufficient to create a genuine issue of material fact. *Banbury v. Omnitrition Int’l, Inc.*, 533 N.W.2d 876, 881 (Minn. App. 1995). Second, even if this affidavit was appropriate for us to consider, it does not create a genuine issue of fact that suggests Steen induced him to transfer his interest. The purported statement—that Steen, “promised that we would stay together and share our home”—does not demonstrate that Van Kuyk transferred his interest in the property in reliance upon that promise. Van Kuyk’s own declaration in response to summary judgment says the opposite—that he learned of the purported tax benefit which led him to transfer his interest to Steen. Further, Van Kuyk’s declaration indicates that Steen was reluctant to have him transfer his interest to her, further establishing that no inducement by Steen caused his decision to transfer.

We are not persuaded otherwise by two cases identified by Van Kuyk, *Carlson v. Olson* and *Pavelka v. Shadursky*. Both cases are distinguishable. In *Carlson*, the supreme court affirmed an equitable partition of the property between an unmarried couple. *Carlson v. Olson*, 256 N.W.2d 249, 255 (Minn. 1977). The parties held themselves out as a married couple and were listed on the underlying deed as “joint tenants” and “husband and wife.” *Id.* at 250. In the case before us, the title was originally in the name of Van Kuyk and Steen as tenants in common. Following Van Kuyk’s transfer, the title remained solely in the name of Steen.

Because *Pavelka* is nonprecedential and it is distinguishable, it is neither binding nor persuasive. See Minn. R. Civ. App. P. 136.01, subd. 1(c) (“Nonprecedential opinions and order opinions are not binding authority except as law of the case, res judicata or collateral estoppel, but nonprecedential opinions may be cited as persuasive authority.”). In *Pavelka*, Shadursky claimed part ownership based upon promissory estoppel. *Pavelka v. Shadursky*, No. A22-0706, 2023 WL 1098185, at *1 (Minn. App. Jan. 30, 2023). The court found that Shadursky had transferred the title to Pavelka based upon a promise from Pavelka that Shadursky would maintain her interest in the home as long as she shared in making the mortgage payments. *Id.* Despite Shadursky paying her share of the mortgage payments, Pavelka initiated a civil lawsuit seeking a declaratory judgment determining that he is the sole property owner. *Id.* This court affirmed the district court’s judgment in favor of Shadursky that she maintained an equal ownership interest based upon promissory estoppel. *Id.* at *2-4. In contrast to *Pavelka*, Van Kuyk did not plead promissory estoppel and even if he had, he has not presented any genuine issues of material fact demonstrating a promise was made that induced him to transfer his interest in the property to Steen.

Because there exist no genuine issues of material fact that Van Kuyk possessed an ownership interest in the property, the district court properly granted respondents’ summary-judgment dismissal of Van Kuyk’s claim.

Partition

Under Minn. Stat. § 558.01 (2024), persons with an interest in property of “an estate of inheritance or for life or for years,” as joint tenants or tenants in common, may bring an action for partition. The common ownership required by statute may be based on either

legal title or equitable title. *Searles v. Searles*, 420 N.W.2d 581, 583 (Minn. 1988) (holding ex-wife's ownership claim to marital interest in Minnesota real estate is sufficient to bring partition action, despite the fact that dissolution occurred under Missouri decree). Before deciding how the property is to be partitioned, the district court must first determine whether the party seeking partition has title to the property. Minn. Stat. § 558.04. (2024); see *Sills v. Thomes*, ___ N.W.3d ___, ___, 2025 WL 1213817, at *1 (Minn. App. Apr. 28, 2025).

As we already concluded, the district court properly granted summary-judgment dismissal because there are no genuine issues of material fact to support Van Kuyk's claim of an ownership interest in the property. Because Van Kuyk has no ownership interest in the property, the district court did not err when it dismissed his partition claim.

Affirmed.