

*This opinion is nonprecedential except as provided by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
A24-1945**

Paul A. Kruger, et al.,
Appellants,

vs.

Jackie Eversman Passe,
Respondent,

Paul Priefert, et al.,
Respondents.

**Filed July 14, 2025
Affirmed
Harris, Judge**

Wabasha County District Court
File No. 79-CV-22-862

Gregory M. Erickson, Benjamin P. Lanari, Mohrman, Kaardal & Erickson, P.A.,
Minneapolis, Minnesota (for appellants)

Sally M. Silk, Moersch, Dorsey & Hahn, P.A., Northfield, Minnesota (for respondent
Jackie Eversman Passe)

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

NONPRECEDENTIAL OPINION

HARRIS, Judge

Appellants argue that the district court erred when it denied their claim to reform a
warranty deed to exclude an easement. Because the district court did not abuse its

discretion when it concluded that appellants did not prove the elements necessary to reform the deed by clear and convincing evidence, we affirm.

FACTS

Around 1982, Vincent and Isabelle Eversman (the Eversmans)¹ owned approximately 718 acres of farmland in Wabasha. Over the years, the Eversmans sold portions of their farmland in separate sales. Due to financial difficulties, the Eversmans signed a contingent interest term loan agreement (workout agreement) with a bank in 1987. The agreement allowed the Eversmans to set aside a significant portion of their original loan for the farm, which would become due at some point in the future. Either their loan needed to be paid off or the parties needed to reach another agreement prior to May 1, 1995. If that did not happen, the Eversmans' loan could exceed \$400,000 after the debt became due.

Because of the workout agreement and financial difficulties, the Eversmans entered into a contract for deed to sell 310 acres of their farm to appellants Paul A. Kruger and Mary Jane Kruger (the Krugers), their daughter and son-in-law, in April 1995. A Loan specialist, P.H., worked on the transaction on behalf of the bank and had to approve any negotiations regarding the loan. Therefore, the Eversmans were not in full control of the terms by which their property would be liquidated.

In the original contract for deed, the Eversmans reserved an easement (E1) for themselves. The contract for deed was recorded on May 22, 1995. After the property was

¹ While we generally refer to individuals by their last names in our opinions, at times we refer to individuals by their first names to avoid confusion.

appraised, the parties realized that an additional easement (E2) was needed so that the Krugers could access a part of the land they acquired. An amended contract for deed containing E1 and E2 was recorded on August 8, 1995.

About two weeks later, on August 21, 1995, the Eversmans executed a warranty deed conveying the land to the Krugers. The warranty deed, drafted by the Eversmans' attorney, reserved three easements—E1, E2, and E3. E3 gave the Eversmans and their heirs the right to use a dirt road to cross the Kruger property to access a tillable portion of land the Eversmans owned adjacent to the Kruger property.

Paul Kruger remembers signing the closing documents on the back of P.H.'s car. He testified that his review of the closing documents was limited and that he did not get a copy. The Krugers and P.H. did not understand the legal description of the easements in the closing documents. On September 12, 1995, the Krugers executed a deed titled "Easement" in favor of the Eversmans. This deed, which included E3, was recorded on October 16, 1995.

The Krugers claim that the Eversmans fraudulently inserted E3 in the 1995 warranty deed. In 2022, the Krugers sued respondents Jackie Eversman Passe, Paula Priefert,² Nicole Eversman Radatz, Melissa Eversman Beach, and Robert Eversman,³ alleging that

² The district court caption incorrectly identifies respondent Paula Priefert as Paul Priefert. "The title of the action shall not be changed in consequence of the appeal." Minn. R. Civ. App. P. 143.01.

³ Respondents are the Estate of Raymond A. Eversman, Vincent and Isabelle's son, and the beneficiaries of his estate. Jackie Eversman Passe filed a brief as an individual and as the personal representative of the Estate of Raymond A. Eversman. The other respondents did

E3 was invalid and the product of fraud or forgery, and that respondents created a nuisance and trespassed on the Krugers property. The Krugers sought reformation of the warranty deed to exclude E3 and a declaratory judgment enjoining respondents from using, interfering, or trespassing on the Krugers land and ordering respondents to bear any costs. Respondents brought counterclaims seeking a permanent injunction preventing appellants from interfering with and obstructing the use of E3 and awarding damages for costs necessary to repair E3. The parties agreed that the issues of fraud/forgery, trespass, nuisance, and respondents' counterclaim for damages would be tried by an advisory jury.⁴ Then, the district court resolved the Krugers' reformation and declaratory judgment claims, and respondents' counterclaim for a permanent injunction following trial.

At trial, P.H. and the Krugers testified that they did not recall any negotiations discussing E3, and they first learned about it three years ago, in 2021. Evidence from previous lawsuits involving the parties suggested that the Krugers had notice of the inclusion of E1 and E3 in the warranty deed no later than October 21, 1997, when they were served with a complaint in a separate lawsuit. A declaration from Paul Kruger signed during another lawsuit in January 2022, states: "Prior to the final payment of the contract for deed, I agreed to grant Vincent Eversman an easement to property contiguous over the

not file briefs. For ease of reference, we refer to all respondents collectively throughout this opinion.

⁴ "In all actions not triable of right by a jury, the court, upon motion or upon its own initiative, may try an issue with an advisory jury." Minn. R. Civ. P. 39.02.

benefited parcel in exchange for an easement to the benefited parcel, so that I could access the benefited property.”

Paul Kruger testified that he never talked about E3 with Mary Kruger, and that he is “not a hundred percent,” and would have “given [purchasing the farm] another thought” had he known about E3. Passe agreed that there was no evidence of discussions between the Eversmans and the Krugers about the existence of E3 between June and September 1995.

The jury found that E3 was not included in the original contract for deed, and that E3 was not included in the 1995 warranty deed by any fraud, forgery, or inequitable conduct on behalf of the Eversmans. The district court adopted these findings and concluded that “it [was] reasonable that Paul Kruger and Vincent Eversman agreed to exchange easements, and thus E3 was granted to the Eversmans.” The district court also concluded:

The Warranty Deed is a written agreement that appears to express the intentions of the parties. There is not enough evidence to clearly show that the Warranty Deed was not an accurate expression of the parties’ intentions in 1995, or that any such mistake was due to mistake or inequitable conduct.

The district court denied the Krugers’ claim to reform the warranty deed to exclude E3 because the Krugers did not prove the three elements necessary to reform the deed by clear and convincing evidence.

This appeal follows.

DECISION

The Krugers challenge the district court's denial of their claim to reform the warranty deed to exclude E3. "Reformation is an equitable remedy that is available when a party seeks to alter or amend language in a [deed] so that the [deed] reflects the parties' true intent when they entered into the contract." *SCI Minn. Funeral Servs., Inc. v. Washburn-McReavy Funeral Corp.*, 795 N.W.2d 855, 864 (Minn. 2011). The district court may use its equitable powers to reform a deed if the party seeking reformation proves:

(1) that a valid agreement existed between the parties that expressed their real intentions, (2) that the written instrument failed to express the parties' real intentions, and (3) that this failure resulted from the parties' mutual mistake, or a unilateral mistake accompanied by the other parties' fraud or inequitable conduct.

Slindee v. Fritch Invs., LLC, 760 N.W.2d 903, 911 (Minn. App. 2009) (citing *Manderfeld v. Krovitz*, 539 N.W.2d 802, 805 (Minn. App. 1995), *rev. denied* (Minn. Jan. 25, 1996)).

"The evidence supporting reformation of a written instrument, including a deed, must be consistent, clear, unequivocal, and convincing." *Theros v. Phillips*, 256 N.W.2d 852, 857 (Minn. 1977). "[The supreme court] characterized this level of proof as a high burden." *SCI*, 795 N.W.2d at 865 (quotation omitted).

"We review the district court's ultimate decision to grant equitable relief for [an] abuse of discretion."⁵ *Herlache*, 990 N.W.2d at 449-450. Under the abuse-of-discretion

⁵ The Krugers argue that the de novo standard of review applies because the district court erred as a matter of law. The de novo standard of review "applies to the district court's equitable determinations if those determinations were made as a matter of law on summary judgment." *Herlache v. Rucks*, 990 N.W.2d 443, 450 n.4 (Minn. 2023). Here, the abuse-

standard, “the district court’s decision will be overturned only if it is manifestly contrary to the evidence.” *In re Estate of Savich*, 671 N.W.2d 746, 751 (Minn. 2003). In cases involving reformation of a deed, the findings of fact underlying the district court’s decision are not to be set aside unless clearly erroneous.⁶ *Theros*, 256 N.W.2d at 857. A district court’s findings are clearly erroneous if “they are manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.” *Nunnelee v. Schuna*, 431 N.W.2d 144, 146 (Minn. App. 1988), *rev. denied* (Minn. Dec. 30, 1988).

We need only consider whether the district court abused its discretion regarding the third element—whether the deed’s failure to express the parties’ real intentions “was due to a mutual mistake of the parties, or a unilateral mistake accompanied by fraud or inequitable conduct by the other party.” *Theros*, 256 N.W.2d 857.

When focusing on this third element, the district court concluded that there was no mistake because “[t]here is not enough evidence to clearly show that the Warranty Deed was not an accurate expression of the parties’ intentions in 1995,” and further concluded

of-discretion standard applies because the district court “weighed the equities and made its decision based on disputed factual findings after a court trial.” *Id.*

⁶ Respondents argue that the entire appeal should be reviewed for clear error because appellants only challenge the district court’s findings of fact. Respondents also argue that our scope of review is limited to “whether the evidence sustains the findings of fact and whether such findings sustain the conclusion of law and the judgment” because the Krugers did not file any posttrial motions. *Gruenhagen v. Larson*, 246 N.W.2d 565, 569 (Minn. 1976). We disagree because, while the Krugers challenge some of the district court’s factual findings, they ultimately challenge its decision not to grant equitable relief. And a motion for a new trial is “not a prerequisite for appellate review of substantive questions of law when a genuine issue of law is properly raised and considered at the district court level.” *Alpha Real Est. Co. of Rochester v. Delta Dental Plan of Minn.*, 664 N.W.2d 303, 311 (Minn. 2003).

that the Krugers did not prove “that any such mistake was due to mistake or inequitable conduct.” The district court also considered the Krugers’ forgery argument regarding the typeface discrepancies, but concluded that the “difference was not explained in any depth by [appellants].” It also concluded that “[t]here was no testimony as to how common different typefaces may be used in such documents or whether this alone is somehow suggestive of fraud, forgery, or inequitable conduct.” These findings are supported by the record and are not clearly erroneous.

The Krugers argue that the district court abused its discretion by denying their claim to reform the warranty deed because they proved everything required to reform the deed by clear and convincing evidence. They contend that the record shows “fraud or inequitable conduct occurred” because of the sudden appearance of E3 in the closing documents in conjunction with the ongoing history of dissention between the Krugers and the Eversmans. The Krugers point to evidence in the record that the Eversmans did not want to sell their farm, Paul Kruger’s belief that the Eversmans poisoned his milk tanks with penicillin, and the parties’ dislike for one another. The Krugers also rely on P.H.’s testimony that the Eversmans were the only ones to benefit from E3, that the Eversmans’ attorney drafted the warranty deed, and Paul Kruger’s testimony that E3 was the result of fraud.

However, the Krugers also concede that they “were not able to show exactly what kind of fraud or inequitable conduct occurred.” On appeal, “[a] party cannot complain about a district court’s failure to rule in [the party’s] favor when one of the reasons it did not do so is because that party failed to provide the district court with the evidence that

would allow the district court to fully address the question.” *Eisenschenk v. Eisenschenk*, 668 N.W.2d 235, 243 (Minn. App. 2003), *rev. denied* (Minn. Nov. 25, 2003). In any event, there is other record evidence supporting the district court’s conclusion that there was no fraud or other inequitable conduct on behalf of the Eversmans. For example, the Eversmans had limited bargaining power because of the workout agreement, the only individuals involved in the negotiations were P.H. and Paul Kruger, and no one involved in the transaction understood the legal descriptions of the easements in the documents. The Krugers argue that the district court erred by weighing the evidence because the evidence does not support the district courts determination, but it was the Krugers’ burden to prove all elements by clear and convincing evidence and “[w]e cannot reweigh the evidence presented to the [district] court.” *Vangsness v. Vangsness*, 607 N.W.2d 468, 475 (Minn. App. 2000) (quotation omitted).

In sum, the district court’s factual findings are supported by the record. And the district court did not abuse its discretion because its ultimate decision to deny the Krugers’ claim to reform the deed was not manifestly contrary to the evidence.⁷ *Savich*, 671 N.W.2d at 751 (concluding that the district court did not abuse its discretion by refusing to reform deed when “there [was] no evidence that respondents intended, but mistakenly failed, to deed [the] property to the estate”).

Affirmed.

⁷ Because the Krugers had the burden to prove all three elements by clear and convincing evidence, we need not consider the first two elements.