This opinion is nonprecedential except as provided by Minn.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
A25-1629

Jacob R. Taylor, as Special Administrator
of the Estate of Margaret Ann Kortas,
a/k/a Margaret A. Kortas, a/k/a Margie Mihalow Kortas,
Respondent,

vs.

James Kortas, et al.,
Appellants,

John Doe, et al.,
Defendants.

Filed June 29, 2026
Affirmed
Jesson, Judge[*]

Anoka County District Court
File No. 02-CV-25-4911

Joel D. Van Nurden, Van Nurden Law, PLLC, Hopkins, Minnesota (for respondent)

Joseph D. Kantor, Timothy R. Maher, Guzior Armbrecht Maher, St. Paul, Minnesota (for appellants)

Considered and decided by Ross, Presiding Judge; Worke, Judge; and Jesson, Judge.

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

NONPRECEDENTIAL OPINION

JESSON, Judge

This appeal centers on possession of a multi-family residential building located in Columbia Heights. After the sole owner of the building, Margaret Kortas, passed away in 2019 without a will, Margaret's[1] husband, appellant James Kortas, entered into an agreement to sell the building to respondent Jacob R. Taylor.[2] Columbia Heights eventually revoked the rental license for the property, but James and his adult children, appellants Tony Kortas and Kim Kortas, continued to reside at the property.

Taylor petitioned the district court in Ramsey County for appointment as special administrator of Margaret's estate. The district court granted Taylor's petition, which gave him the limited powers to administer Margaret's estate, including to "preserve and redeem the property," preserve and protect all estate assets, and sell the property. Because the city declared the property "unlawful to occupy" and Taylor was concerned that it was not fit for human habitation, Taylor attempted to work with the Kortases to have them vacate the property. When the Kortases did not leave, Taylor brought an eviction action in Anoka County. Taylor moved for summary judgment in the eviction action, which the district court granted. On appeal, the Kortases assert that summary judgment was inappropriate because they did not unlawfully detain or retain possession of the property. Because we

[1] Because the parties share a last name, we refer to them individually by their first names. We refer to appellants collectively as "the Kortases."

[2] Taylor entered into the purchase agreement in his personal capacity. In this appeal, Taylor appears in his representative capacity as Special Administrator of the Estate of Margaret A. Kortas, a/k/a Margie Mihalow Kortas.

conclude that the Kortases were unlawfully detaining or retaining possession of the property after the special administrator demanded possession, we affirm.

FACTS

In 2019, Margaret Kortas passed away without a will.[3] Margaret was the sole owner of a multi-family apartment building located in Columbia Heights. After her death, Margaret's husband, James, and the couple's adult children occupied three units of the apartment building.

There was no probate action after Margaret's death to distribute her assets and the apartment building remained in her name.[4] In 2023, James entered into a purchase agreement to sell the building to Taylor. The purchase agreement included a term allowing James to occupy three units rent free for five years. In 2024, Taylor sued James for specific performance, and the district court ordered James to sell the property to Taylor under the terms of the purchase agreement. Despite this order, the sale of the property to Taylor has not been finalized.

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[3] The following facts summarize the evidence presented on summary judgment and are presented in the light most favorable to the Kortases as the nonmoving parties. *See Schroeder v. Simon*, 985 N.W.2d 529, 535-36 (Minn. 2023) ("In evaluating a grant of summary judgment, we must view the evidence in the light most favorable to the nonmoving party." (quotation omitted)).

[4] Because Margaret died without a will, James contends that the apartment building passed to him, and that he is the "de facto owner of the Property." According to the Minnesota Uniform Probate Code: "Upon death, a person's real and personal property devolves to the person to whom it is devised by last will or . . . in the absence of testamentary disposition, to the decedent's heirs." Minn. Stat. § 524.3-101 (2024). But this devolved interest is subject to, among other things, administration of the estate. *Id.*

The city revokes the rental license for the property

In September and October 2024, the city sent notices to James that the rental license for the property was at risk of being revoked because it was not renewed. The city served notices on the "tenant[s]/occupant[s]" that a public hearing was scheduled for consideration of revocation of the rental license. On November 13, the city posted a notice at the property stating, "RENTAL LICENSE REVOKED," and noting that the property was in violation of city code.

The city inspection office also sent notices to the "Property Owner/Manager" explaining: "This action **revokes your right to rent,** lease, or let, the premises, or any part of the premises above." (Emphasis in original.) The notice also said that the property would be unlawful to occupy, stating: "On 12/30/2024, the property becomes ***Unlawful to Occupy*** and the Property Owner, as well as any occupants, may be criminally cited for continued occupancy of the property." (Emphasis in original.) And that, "It is **unlawful** for a property owner **to operate, accept payments for, and allow occupancy of** an unlicensed rental property." (Emphasis in original.) The notice continued, "It is also unlawful for tenants to occupy an unlicensed rental property."

In December 2024, the city revoked the rental license for the property because it still had not been renewed. The corresponding notice stated that "any person, firm or corporation, or licensee may be guilty of a misdemeanor for operating any premise, or party thereof, or accepting payments from tenants of an unlicensed premises." The notice also warned that the city could issue citations to the property owner for allowing occupancy or to tenants who occupied an unlicensed rental property.

Taylor is appointed special administrator of Margaret's estate

Shortly before the city's revocation of the license, in November 2024, Taylor petitioned the district court in Ramsey County[5] for appointment as special administrator of Margaret's estate (the probate action). Taylor alleged that the Kortases were "failing to preserve the property, by failing to pay taxes, [and] failing to pay utilities, resulting in imminent likely foreclosure. In addition, the property is uninsured, creating risk of total loss." The district court granted Taylor's petition in December 2024. The powers outlined in the letters of special administration included "administration of the estate to preserve and redeem the property." The letters also allowed for "[p]reservation and protection of all estate assets" and "[t]he sale of the asset."

In March 2025, James filed a motion in the probate action requesting a temporary injunction because Taylor was engaging in actions that went beyond preserving and protecting the property but were instead renovating the property. The parties then stipulated that Taylor would be "enjoined from making any further alterations to the property. . . , emergencies excepted, until such time as the Court has approved a full account of the Estate administration."

[5] Taylor filed the petition in Ramsey County because Margaret was domiciled in Ramsey County at the time of her death. Minn. Stat. § 523.3-201(a)(1) (2024).

Eviction Action

In July 2025, Taylor brought an eviction action in Anoka County,[6] maintaining that the Kortases failed to preserve or maintain the property and that it was unlawful to occupy the property after the rental license was revoked. The Kortases moved to dismiss for lack of subject matter jurisdiction, lack of standing, and for failure to state a claim upon which relief can be granted. Alternatively, they requested judgment on the pleadings, dismissal of the complaint under Minnesota Statutes section 504B.311 (2024), because they have held over the property for more than three years, or a stay of all eviction proceedings until the probate and specific performance lawsuits are completed.

Before proceeding to trial in the eviction action, Taylor made an oral motion for summary judgment. Taylor maintained that as special administrator he had legal authority to bring the eviction action and require removal, and that summary judgment was appropriate because the Kortases were unlawfully detaining and retaining the property, especially considering the order from the city revoking the rental license.

The Kortases opposed the motion, asserting that summary judgment was inappropriate because there was a genuine issue of material fact as to whether, assuming Taylor has authority to bring the eviction action, the eviction will preserve and protect the estate because it was contested whether the Kortases were causing damage or waste to the property. And the Kortases asserted that neither the judgment in the specific performance

[6] The eviction action was filed in Anoka County because that is where the property is physically located.

action nor Taylor's appointment as special administrator deemed unlawful their current possession of the property.

They also maintained that they were not "unlawfully detaining possession" of the property, claiming that the revocation of the rental license impacts only the owner's ability to rent the property, there is a valid certificate of occupancy, and James is the de facto owner of the property as Margaret's spouse. As a result, the Kortases contended that James was only limited in his ability to rent—not to occupy. In support of this allegation, the Kortases submitted an affidavit from a city building official explaining that: "The Owner of the property . . . may not rent the apartments there to third parties because of the lack of a rental license." The building official also clarified that his "office has not revoked the certificate of occupancy for the property."

The district court granted Taylor's motion for summary judgment and denied the Kortases' motion to dismiss without considering it. The court reasoned that Taylor was the lawful owner of the property through his appointment as special administrator. It further determined that the plain language in the notice revoking the rental license stating that any occupancy of the property was unlawful supported summary judgment, regardless of any contractual right that James may have had to occupy the three units under the purchase agreement. For these reasons, the court concluded that Taylor was entitled to judgment as a matter of law.

This appeal follows.

DECISION

The Kortases assert that summary judgment was inappropriate because there are genuine issues of material fact about whether they were "unlawfully detaining or retaining possession of the property."[7] *See* Minn. Stat. § 504B.301 (2024) (authorizing eviction "if the person has unlawfully or forcibly occupied or taken possession of real property or unlawfully detains or retains possession of real property").

We review the district court's decision to grant summary judgment de novo by determining if there are genuine issues of material fact and considering whether the district court erred in applying the law. *Montemayor v. Sebright Prods., Inc.*, 898 N.W.2d 623, 628 (Minn. 2017). A material fact affects the outcome of the case. *Rochester City Lines, Co. v. City of Rochester*, 868 N.W.2d 655, 661 (Minn. 2015). When considering whether there are genuine issues of material fact, we review the evidence in the light most favorable to the nonmoving party, here, the Kortases. *Id.* Summary judgment is inappropriate if reasonable people could draw different conclusions from the evidence presented. *Montemayor*, 898 N.W.2d at 628.

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[7] The Kortases also argue that the district court erred in denying their motion to dismiss under Minnesota Rule of Civil Procedure Rule 12.02(e)—failure to state a claim upon which relief can be granted. If, on a motion to dismiss, "matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56." Minn. R. Civ. P. 12.02. Because matters outside the pleading were presented, the district court correctly treated this motion as one for summary judgment.

This appeal centers on whether Taylor, as special administrator, was entitled to seek eviction of the Kortases because they were unlawfully detaining or retaining possession of the property, when it is undisputed that James had an equitable interest in the property as the spouse of Margaret and that the Kortases were not residential tenants or otherwise renting the property.[8] To address this issue, we first turn to the relevant statutory schemes governing eviction and probate matters.

An eviction action is a "summary court proceeding to remove a tenant or occupant from or otherwise recover possession of real property by the process of law set out in [chapter 504B]." Minn. Stat. § 504B.001, subd. 4 (2024). It addresses the right to current possession but "does not adjudicate the ultimate legal or equitable rights of ownership possessed by the parties." *Gallagher v. Moffet*, 46 N.W.2d 792, 793 (Minn. 1951) (stating that "[a]n [eviction] action merely determines the right to present possession").

By contrast, the district court in a probate action has jurisdiction to decide all matters relating to the estate of the decedent, including the determination of heirs. Minn. Stat. § 524.1-302 (2024). An estate is administered by a representative under the

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[8] As a threshold matter, we consider the Kortases' argument that the district court erred in denying their motion to dismiss under Minnesota Rule of Civil Procedure 12.02. Standing is a jurisdictional question, which we review de novo. *Laymon v. Minn. Premier Props., LLC*, 903 N.W.2d 6, 13 (Minn. App. 2017), *aff'd*, 913 N.W.2d 449 (Minn. 2018). The Kortases maintain that even though Taylor is special administrator of Margaret's estate, he did not have standing to bring an eviction action and did not allege sufficient facts to establish that he suffered an injury-in-fact, as his authority does not allow him to dispossess Margaret's heirs from the property and he did not allege how the Kortases have harmed him or the estate. We conclude that Taylor has standing to bring the eviction action because, as discussed in more detail below, Taylor, as special administrator, had the ability to bring claims to carry out his duties of protecting and preserving the estate assets and selling the property. *Id.* at 14.

jurisdiction and supervision of the probate court. Minn. Stat. § 524.3-103 (2024). Relevant here, the court may appoint a special administrator instead of a personal representative if the "appointment is necessary to preserve the estate or to secure its proper administration." Minn. Stat. § 524.3-614(2) (2024). The special administrator generally has the same powers as a personal representative. Minn. Stat. § 524.3-617 (2024). Specifically, the special administrator "has a right to, and shall take possession or control of, the decedent's property . . . . " Minn. Stat. § 524.3-709 (2024). When the special administrator requests property possessed by an heir, it is "conclusive evidence . . . that the possession of the property by the [special administrator] is necessary for purposes of administration." *Id.* And while in possession or control of the decedent's property, the special administrator "has the same power over the title to property of the estate that an absolute owner would have." Minn. Stat. § 524.3-711 (2024). In short, the special administrator must take all reasonable steps to manage, protect, and preserve the property. Minn. Stat. § 524.3-709.

Here, it is undisputed that the letters of special administration provided Taylor powers including "administration of the Estate to preserve and redeem the property." Taylor also had the authority to preserve and protect all estate assets and sell the property. In doing so, Taylor did not need "the consent of any devisee or heir unless the property [had] been specifically devised to a devisee or heir by [the] decedent's will." Minn. Stat. § 524.3-715(23) (2024). And although Taylor later agreed in the stipulation for temporary injunction to be "enjoined from making any further alterations to the property . . . , emergencies excepted, until such time as the Court has approved a full account of the Estate administration," his powers related to protecting and selling the property were not changed.

It is also undisputed that Taylor attempted to effectuate the sale of the property and have the Kortases vacate the property and move to a safer location after the city had posted notices that the property was "unlawful to occupy" and because Taylor believed the property was not safe for human habitation. This action amounted to a demand for possession, which was within Taylor's authority as the special administrator of the estate. *See* Minn. Stat. § 524.3-709. Once Taylor demanded possession and the Kortases refused to leave, the Kortases were unlawfully detaining or retaining possession and could be evicted. *See* Minn. Stat. § 504B.301.

We are not persuaded otherwise by the Kortases' argument that the building official's affidavit created a genuine issue of material fact about whether their possession was unlawful. Assuming that there was a valid certificate of occupancy, the Kortases do not assert that they have a present legal right to possession under a lease or contract beyond what James alleges was his de facto ownership interest as Margaret's spouse. Nor do they address how this ownership interest would overcome Taylor's right to possession as special administrator. As a result, there are no material facts in dispute to preclude summary judgment.

In sum, we conclude, based on the evidence presented here, that there are no genuine issues of material fact, and the district court did not err in granting summary judgment to Taylor in this eviction action. We acknowledge that there may be outstanding equitable ownership issues that need to be addressed in the probate and specific performance actions.

But those issues are not before us—nor were they before the district court in this limited eviction matter.

Affirmed.