

NORTH DAKOTA SUPREME COURT

Pifer v. McDermott

836 N.W.2d 432 (N.D. 2013) · Decided August 29, 2013

SUMMARY

The North Dakota Supreme Court affirmed a judgment awarding Kevin Pifer damages for unlawful interference with business. The court held that a recorded, gratuitous purchase option granted by Dorothy Bevan was a valid and enforceable gift, and that McDermott took the property subject to the option. The court also upheld the jury verdict, denial of judgment as a matter of law, and temporary injunction concerning the property's farming and rental proceeds.

CASE DETAILS

COURT	North Dakota Supreme Court
WRITING FOR THE COURT	Crothers, Justice; Gerald W. Vande Walle, C.J.; Mary Muehlen Maring; Carol Ronning Kapsner; Dale V. Sandstrom
JURISDICTION	North Dakota
DECIDED	August 29, 2013
DISPOSITION	affirmed
PROCEDURAL POSTURE	McDermott appealed from a judgment entered on a jury verdict awarding Pifer \$80,957.07 for unlawful interference with business and from related district court orders, including summary judgment enforcing Pifer's purchase option and a temporary injunction concerning farming and rental proceeds.
STANDARD OF REVIEW	Summary judgment is reviewed de novo on the record, viewing the evidence in the light most favorable to the opposing party. A judgment as a matter of law is reviewed fully on appeal, with the evidence and reasonable inferences viewed in the light most favorable to the party opposing the motion and with a rigorous standard favoring preservation of the jury verdict. A temporary injunction is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion; precedential.
PARTIES	Barbara McDermott v. Kevin Pifer

TOPICS

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QUESTIONS PRESENTED

1. Whether the gratuitous purchase option was valid and enforceable despite Pifer's lack of consideration.
2. Whether McDermott became a successor charged with notice of the recorded option when Bevan transferred the property to herself and McDermott as joint tenants.
3. Whether the district court properly resolved Bevan's donative intent and the validity of the option by summary judgment.
4. Whether Pifer's claim for unlawful interference with business was properly presented despite being captioned in the complaint as intentional interference with economic advantage.
5. Whether the evidence supported the jury's verdict and damages award and whether McDermott was entitled to judgment as a matter of law.
6. Whether the district court abused its discretion by continuing a temporary injunction governing farming of the property and deposit of rental proceeds.

HOLDINGS

1. An option to purchase real property given without consideration is valid and enforceable when it is unconditionally accepted within the prescribed time and was not withdrawn before acceptance.
2. McDermott was a successor to Bevan's property interest and took the interest subject to the recorded purchase option.
3. The district court properly granted summary judgment because McDermott presented no competent evidence creating a genuine issue of material fact concerning Bevan's mental capacity, donative intent, undue influence, coercion, or fraud.
4. Pifer's claim was properly presented because unlawful interference with business is synonymous with interference with economic advantage, and the claim was supported by the governing pattern jury instruction.
5. The district court properly denied McDermott's motion for judgment as a matter of law because the evidence, viewed favorably to Pifer, supported the jury's finding of unlawful interference and its damages award.
6. The district court did not abuse its discretion by continuing the temporary injunction, allowing Pifer to farm or cash-rent the property, and requiring rental proceeds to be deposited with the court.

KEY QUOTATIONS

“An option to purchase real property given without consideration is valid and enforceable if “the option agreement was unconditionally accepted within the time prescribed therein and no attempt was made to

withdraw it before acceptance.”” (at 438)

“Interference with business is synonymous with interference with economic advantage.” (at 441)

FACTUAL BACKGROUND

Dorothy Bevan executed a purchase option in 2004 giving Kevin Pifer an exclusive option to purchase two quarter sections of agricultural property for \$107,569, a price below fair market value. The option was recorded before Bevan later conveyed the property to herself and her daughter, Barbara McDermott, as joint tenants with rights of survivorship. After Bevan's death, Pifer timely recorded notice of his intent to exercise the option and tendered the purchase price, but McDermott refused to honor it, continued to control or farm the property, and posted no-trespassing signs. The district court enforced the option and a jury awarded Pifer damages for unlawful interference with business.

PROCEDURAL HISTORY

Pifer sued McDermott for declaratory relief, specific performance of a purchase option, and damages for intentional interference with economic advantage. The district court granted Pifer partial summary judgment, ruling the option valid and enforceable, and certified the judgment under N.D.R.Civ.P. 54(b); the North Dakota Supreme Court dismissed McDermott's prior appeal because the certification was improper while the damages claim remained pending. After a jury awarded Pifer \$80,957.07, the district court denied McDermott's motion for judgment as a matter of law, continued a temporary injunction governing use of the property, and stayed the judgment pending appeal.

DISPOSITION

affirmed

CASES CITED

- Pifer v. McDermott, 2012 ND 90, 816 N.W.2d 88
- Dole v. Hansen, 238 N.W.2d 58 (N.D. 1975)
- Schulz v. Saeman, 150 N.W.2d 67 (N.D. 1967)
- Alfson v. Anderson, 78 N.W.2d 693 (N.D. 1956)
- Seehafer v. Seehafer, 2005 ND 175, 704 N.W.2d 841
- Jamestown Terminal Elevator, Inc. v. Knopp, 246 N.W.2d 612 (N.D. 1976)
- Horgan v. Russell, 24 N.D. 490, 140 N.W. 99 (1913)
- Nodland v. Plainsmen Petroleum, Inc., 265 N.W.2d 252 (N.D. 1978)
- Vanderhoof v. Gravel Products, Inc., 404 N.W.2d 485 (N.D. 1987)
- Bakken v. Duchscher, 2013 ND 33, 827 N.W.2d 17
- Riedlinger v. Steam Bros., Inc., 2013 ND 14, 826 N.W.2d 340
- Burris Carpet Plus, Inc. v. Burris, 2010 ND 118, 785 N.W.2d 164
- Tarnavsky v. Rankin, 2009 ND 149, 771 N.W.2d 578

- Lawrence v. Roberdeau, 2003 ND 124, 665 N.W.2d 719
- Trade 'N Post, L.L.C. v. World Duty Free Americas, Inc., 2001 ND 116, 628 N.W.2d 707
- Hudson v. Cook, 105 S.W.3d 821 (Ark. Ct. App. 2003)
- Dykstra v. Page Holding Co., 766 N.W.2d 491 (S.D. 2009)
- Striegel v. Dakota Hills, Inc., 843 N.W.2d 785 (N.D. 1984)
- City of Mandan v. Strata Corp., 2012 ND 173, 819 N.W.2d 557
- Hildenbrand v. Capital RV Ctr., Inc., 2011 ND 37, 794 N.W.2d 733
- In re Estate of Vestre, 2011 ND 144, 799 N.W.2d 379
- Minto Grain, LLC v. Tibert, 2009 ND 213, 776 N.W.2d 549
- Eberts v. Billings County Board of Commissioners, 2005 ND 85, 695 N.W.2d 691
- Nodak Mutual Insurance Co. v. Ward County Farm Bureau, 2004 ND 60, 676 N.W.2d 752
- Vorachek v. Citizens State Bank, 461 N.W.2d 580 (N.D. 1990)