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**STATE OF MINNESOTA
IN COURT OF APPEALS
A08-1954**

Thomas C. Koehnen,
Appellant,

vs.

Dorene R. Koehnen,
Respondent.

**Filed December 15, 2009
Affirmed
Kalitowski, Judge**

Dakota County District Court
File No. 19-38-08-006420

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Considered and decided by Klaphake, Presiding Judge; Kalitowski, Judge; and
Huspeni, Judge.*

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

UNPUBLISHED OPINION

KALITOWSKI, Judge

Appellant Thomas C. Koehnen challenges the district court's order and judgment interpreting a previous judgment. Appellant argues that (1) the district court lacked jurisdiction to interpret the original judgment to require him to pay respondent Dorene R. Koehnen's living expenses associated with a townhome, and (2) the district court erred in interpreting the judgment to include the payment of living expenses. We affirm.

DECISION

Appellant initiated an eviction action in district court to remove respondent from a townhome. Respondent had received the townhome pursuant to the parties' divorce decree in 1991, but transferred it to appellant by quit claim deed in 2002. Respondent asserted a number of counterclaims to the eviction action, including fraud, based on appellant's promise that he would allow her to reside in the townhome as long as she needed in exchange for a quit claim deed to the townhome. Following a bench trial, the court issued an order for judgment in favor of respondent, finding that appellant engaged in fraud when he persuaded respondent to sign a quit claim deed to the townhome to him. The court granted respondent a "rent free life estate in the subject property." Respondent filed a motion to enforce the judgment, or in the alternative to clarify the judgment, asking the court to order appellant to pay the expenses associated with the property. The district court entered judgment on October 23, 2008, ordering appellant to pay expenses related to the townhome, including mortgage payments, association dues, property taxes, and utility bills.

I.

Appellant argues that the district court lacked jurisdiction to interpret the phrase “rent free life estate” in the original judgment to include the payment of living expenses. We disagree.

This court reviews legal issues concerning jurisdiction de novo. *McLain v. McLain*, 569 N.W.2d 219, 222 (Minn. App. 1997), *review denied* (Minn. Nov. 18, 1997). A district court has jurisdiction to interpret and clarify a judgment that is ambiguous or uncertain on its face, even if the time for appeal has passed. *Halverson v. Halverson*, 381 N.W.2d 69, 71 (Minn. App. 1986). Such an interpretation is not an amendment of the judgment’s terms, and it does not challenge the judgment’s validity. *Id.*

Whether language is ambiguous is a question of law that is initially decided by the district court. *Stieler v. Stieler*, 244 Minn. 312, 319, 70 N.W.2d 127, 131-32 (1955). Language is ambiguous when it is subject to more than one interpretation. *Id.*

Here, the language of the July 2008 judgment was ambiguous because the parties disagreed as to the meaning of the term “rent free life estate.” *See Erickson v. Erickson*, 449 N.W.2d 173, 178 (Minn. 1989) (“Disagreement between the parties as to the interpretation of a dissolution decree may be tantamount to a finding of ambiguity.”). In light of appellant’s past payment of living expenses, respondent’s lack of financial resources, and the circumstances surrounding appellant’s promise to respondent, it was reasonable for respondent to interpret “rent free life estate” to include payment of utilities, taxes, and association dues. Likewise, a literal reading of the term “life estate” may reasonably lead appellant to conclude that “rent free life estate” does not include

living expenses. Because the term “rent free life estate” is subject to differing interpretations, the judgment was ambiguous. Thus, the district court had jurisdiction to issue the subsequent order pursuant to its inherent power to clarify and interpret its judgments. *See Edelman v. Edelman*, 354 N.W.2d 562, 563-64 (Minn. App. 1984) (holding that the district court has the inherent power to interpret an ambiguous judgment).

Timely Filing

Appellant argues that respondent’s motion to enforce or clarify the judgment was untimely pursuant to Minn. R. Civ. P. 52.02 and Minn. R. Civ. P. 59.03, the rules governing motions to amend findings. *See* Minn. R. Civ. P. 52.02 (providing that a motion to amend findings must be brought within the time allowed for a motion for a new trial); Minn. R. Civ. P. 59.03 (providing that a motion for a new trial must be brought within 30 days after a notice of filing has been served by any party). We disagree.

The purpose of a motion to amend findings of fact is to permit the district court to review the exercise of its own discretion, and review allegedly defective findings. *Lewis v. Lewis*, 572 N.W.2d 313, 315 (Minn. App. 1997), *review denied* (Minn. Feb. 19, 1998). In contrast, a motion to enforce or clarify the judgment simply allows the ordering court to clarify any ambiguities or doubtful meanings. *See Stieler*, 244 Minn. at 319, 70 N.W.2d at 132 (“[T]he clarification of a judgment does not constitute an amendment of it or the findings upon which it is based.”). Respondent’s motion was not a motion to amend findings, but was a motion to enforce or clarify the judgment. We conclude that respondent’s motion to enforce or clarify the judgment was timely. *See Halverson*, 381

N.W.2d at 71 (“A court has jurisdiction to interpret and clarify a judgment . . . , even after the time for appeal has passed.”).

Living Expenses Brought Up In Pleadings

Appellant argues that the district court lacked jurisdiction to award living expenses because the issue was not set forth in the pleadings, nor was it litigated by consent. We disagree.

A district court is required to base relief on issues either raised in the pleadings or litigated by consent. *Folk v. Home Mut. Ins. Co.*, 336 N.W.2d 265, 267 (Minn. 1983). An issue is litigated by consent when a party either fails to object to evidence that is otherwise inadmissible because not relevant to issues raised in the pleadings, or submits evidence related to nonpleaded issues. *Id.*

Here, the record indicates that the issue of paying living expenses as part of appellant’s promise to respondent was both addressed in the pleadings and litigated during trial. Respondent’s answer and counterclaim stated the following: “In the late 1990’s [respondent] became financially unable to pay the mortgage on the Homestead and *related expenses* [Appellant] began to pay a portion of the obligations related to the Homestead.” (Emphasis added.) At trial, appellant testified that after respondent transferred the townhome to him, he paid the mortgage payments, association dues, taxes, insurance payments, and water bills. Appellant’s payment of living expenses was presented initially in the pleadings and litigated at trial in order to establish the substance of appellant’s promise to respondent. It was not an issue that was additional and separate from a promise to pay “rent,” but was implicit in his promise to allow respondent to live

in the townhome for as long as respondent chose to live there. Thus, appellant's argument that the issue of living expenses was not brought up in the pleadings or litigated by consent is without merit.

Modification of Dissolution Judgment Decree

Appellant argues that the district court lacked jurisdiction to make the order at issue because the order constituted a modification of the parties' property settlement or an extension of respondent's spousal maintenance obligation. *See* Minn. Stat. § 518.145, subd. 2 (2008) (limiting motion for modification of a property division to a year of the judgment and decree); *Eckert v. Eckert*, 299 Minn. 120, 123-24, 216 N.W.2d 837, 839 (1974) (holding that the district court generally lacks jurisdiction to award additional maintenance once the original maintenance obligation has expired). We disagree.

The court's order was not an extension of the parties' property settlement or appellant's maintenance obligation, but was an interpretation of a previous judgment concerning a fraudulent promise. The appellant in *Halverson* made a similar argument, and this court held that the district court's order clarifying the original property division did not constitute a modification of the property division. 381 N.W.2d at 72. *See also Johnson v. Johnson*, 627 N.W.2d 359, 363 (Minn. App. 2001), *review denied* (Minn. Aug. 15, 2001) (concluding that district court has discretion to issue orders to implement, enforce, or clarify the provisions of a decree, and that such orders do not result in reopening a final judgment). Moreover, the court's order here clarified a judgment based on appellant's fraudulent promise to allow respondent to live in the townhome in exchange for respondent deeding the property to him. Thus, the order was independent

from the parties' 1992 divorce decree. We conclude that the order interpreting the judgment was proper and did not constitute a modification of the 1992 property settlement or maintenance award.

II.

Appellant argues that the district court erred in interpreting "rent free life estate" to include the payment of expenses associated with living on the property, citing caselaw that defines the rights and responsibilities of the holder of a life estate. We disagree.

While the ambiguity of a judgment provision is a question of law, the meaning of a particular ambiguous provision is a question of fact. *Emerick on Behalf of Howley v. Sanchez*, 547 N.W.2d 109, 112 (Minn. App. 1996). A district court's interpretation of its own ambiguous provision is reviewed for clear error, and is given great weight on appeal. *Tarlan v. Sorensen*, 702 N.W.2d 915, 919 (Minn. App. 2005).

In clarifying the meaning of an ambiguous judgment, the court may examine the whole record. *Mikoda v. Mikoda*, 413 N.W.2d 238, 242 (Minn. App. 1987), *review denied* (Dec. 22, 1987). In interpreting or clarifying any part of a judgment, the court should consider the judgment as a whole. *Palmi v. Palmi*, 273 Minn. 97, 102, 140 N.W.2d 77, 81 (1966).

Here, the district court did not clearly err in interpreting its original judgment to require appellant to pay the expenses associated with living in the townhome because the judgment provision is to be construed in light of the circumstances of the fraudulent promise made by appellant. *See Mikoda*, 413 N.W.2d at 242 (stating that the court should interpret the judgment in the context of the whole record); *Palmi*, 273 Minn. at

102, 140 N.W.2d at 81 (stating that the court should consider the judgment as a whole). And to hold the district court to the strict legal definition of a “life estate” is to ignore the district court’s original intent. *See Palmi*, 273 Minn. at 103, 140 N.W.2d at 81 (stating that in interpreting a judgment, “that construction will be adopted which makes it such as ought to have been rendered.”). Because the district court is in the best position to clarify its original judgment, this court should defer to its interpretation. *See Johnson*, 627 N.W.2d at 363 (“A trial court’s construction of its own decree is given great weight on appeal.”). We conclude that the district court’s order enforcing or clarifying its original judgment was not clearly erroneous.

Affirmed.