STATE OF MINNESOTA
IN COURT OF APPEALS
A08-2227

Sandra A. Doeden,
Respondent,

vs.

Jennie Doeden,
Appellant.

Filed December 22, 2009
Affirmed
Hudson, Judge

Murray County District Court
File No. 51-CV-07-366

Paul M. Malone, Eugene D. Mailander, Malone & Mailander, 2605 Broadway Avenue, P.O. Box 256, Slayton, Minnesota 56172 (for respondent)

William J. Wetering, Andrew M. Titus, Hedeen, Hughes & Wetering, 1206 Oxford Street, P.O. Box 9, Worthington, Minnesota 56187 (for appellant)

Considered and decided by Toussaint, Chief Judge, presiding; Shumaker, Judge; and Hudson, Judge.

U N P U B L I S H E D O P I N I O N

HUDSON, Judge

Appellant challenges a judgment awarding respondent $14,163 in compensation for a hog house and machine shed erected on appellant's property or, alternatively, an opportunity for respondent to remove those buildings from the property. Because the

district court's findings are not clearly erroneous and the district court did not err in its application of the law, we affirm.

FACTS

On December 6, 2007, respondent Sandra A. Doeden, widow of appellant Jennie Doeden's son, Kevin Doeden, filed a complaint in Murray County District Court alleging that she inherited an interest in any potential cause of action arising out of the construction and maintenance of a hog house and a machine shed built by her late husband on appellant's property; that she should be compensated for the value of the buildings; and that appellant would be unjustly enriched if permitted to retain the buildings without paying reasonable value for them.[1]

Respondent, who married Mr. Doeden in June 2004, resided with Mr. Doeden on acreage owned by appellant from approximately 1988 until Mr. Doeden's death on November 5, 2005. They did not pay rent to appellant but performed all maintenance and repair of the property and invested significantly in the home and home maintenance. A large shed attached to a concrete foundation on the acreage was insured by Mr. Doeden. The shed was heavily damaged in a storm, and Mr. Doeden collected the insurance proceeds. With appellant's permission, Mr. Doeden built a new machine shed on the previous building's foundation. Mr. Doeden paid for the construction of the new shed, paid for all maintenance and repair of the shed, carried the shed on the depreciation schedules of his tax returns, and insured the shed.

[1] The complaint also alleged that rent was due to respondent based on her inherited one-sixteenth interest in a plot of farmland in Iowa. That matter has been resolved and is not before this court on appeal.

Respondent and Mr. Doeden also farmed approximately 1,200 acres together and operated a pig farrowing operation. In approximately 1984, with appellant's permission, Mr. Doeden constructed a hog house on appellant's land. Mr. Doeden built the hog house for his own use, paid for all construction, maintenance and repair of the building, insured the building, and carried it on the depreciation schedules of his income tax returns. Appellant paid the electrical bills and real estate taxes for the building.

Upon Mr. Doeden's death, respondent inherited a one-half interest in the hog house and the machine shed, the other one-half interest going to Mr. Doeden's son. Respondent sought compensation from appellant for her share of the hog house and machine shed or, alternatively, to be given an opportunity to remove the buildings. Appellant refused to pay respondent or allow her to remove the buildings. Testimony at a bench trial revealed that there was no written agreement between Mr. Doeden and any party concerning property rights in the hog house or the machine shed. An appraiser testified that the hog house is worth $16,000 and the machine shed is worth $12,326.

The district court found that appellant acknowledged that the hog house was owned by Mr. Doeden "by repeatedly referring to the building as Kevin's hog house." The district court further found that appellant was aware of the construction of the hog house on her property and did not object to Mr. Doeden spending his money for the improvement of her property, and that appellant never claimed ownership of or title to the hog house. The district court also found that appellant acknowledged that the machine shed belonged to Mr. Doeden. The district court further found that the machine shed is portable and can be removed from the property without causing any damage to the pre-

existing concrete foundation or bolts. Based on these findings, the district court concluded that respondent was entitled to judgment against appellant in the sum of $14,163 unless appellant authorized respondent or her agents to enter appellant's property and remove the hog house and machine shed. This appeal follows.

D E C I S I O N

Appellant argues that the district court erred in granting respondent compensation for the buildings or, alternatively, an opportunity to remove the buildings, because a tenant is generally not entitled to compensation for improvements made to a leasehold in absence of an agreement. *See In re Estate of Vangen*, 370 N.W.2d 479, 480 (Minn. App. 1985). Respondent argues that the hog house and machine shed were personal property belonging to Mr. Doeden, rather than improvements to appellant's real property.

The district court's findings of fact, whether based on oral or documentary evidence, will not be set aside unless they are clearly erroneous. Minn. R. Civ. P. 52.01. "Findings of fact are clearly erroneous only if the reviewing court is left with the definite and firm conviction that a mistake has been made." *Fletcher v. St. Paul Pioneer Press*, 589 N.W.2d 96, 101 (Minn. 1999) (quotation omitted). This court does not reconcile conflicting evidence. *Id.* "If there is reasonable evidence to support the district court's findings, we will not disturb them." *Rogers v. Moore*, 603 N.W.2d 650, 656 (Minn. 1999). But this court is not bound by and need not give deference to the district court's decision on a purely legal issue. *Porch v. Gen. Motors Acceptance Corp.*, 642 N.W.2d 473, 477 (Minn. App. 2002), *review denied* (Minn. June 26, 2002). "When reviewing mixed questions of law and fact, we correct erroneous applications of law, but accord the

[district] court discretion in its ultimate conclusions and review such conclusions under an abuse of discretion standard." *Id.* (quotation omitted).

All buildings belong to the owner of the land on which they are erected as part of the realty. *Merchants' Nat'l Bank of Crookston v. Stanton*, 55 Minn. 211, 218, 56 N.W. 821, 822 (1893). But "it is entirely competent for the parties to agree that [buildings built on another's real property] shall remain the personal property of him who erects them, and such an agreement may be either express or implied from the circumstances under which the buildings are erected." *Id.* Where a building is built by a person with no interest in the land, with permission of the landowner, an agreement that the building will remain the personal property of the builder will be implied absent circumstances showing a different intention. *Id.* at 219, 56 N.W. at 822; *see also Ingalls v. St. Paul, Minneapolis & Man. Ry. Co.*, 39 Minn. 479, 480, 40 N.W. 524, 525 (1888) (holding that a licensee who erects a building on the land of the licensor is considered the owner of the building and is equitably entitled to a reasonable opportunity to remove it, if removal is practicable and works no serious injury to the licensor's land).[2]

Here, it appears that the district court determined that the hog house and machine shed were Mr. Doeden's personal property. At trial, respondent presented records showing expenses of $63,850 paid by Mr. Doeden relating to the construction of the hog

[2] When a landowner consents to a building being placed on his or her property without an agreement as to whether the building will become real property, an agreement will be implied that the building will remain personal property. 35A Am. Jur. 2d *Fixtures* § 65 (2001); *see also* 41 Am. Jur. 2d *Improvements* § 4 (2005) (stating the "well established principle" that a building erected by another upon an owner's land, with the owner's consent, does not become part of the real property but remains the personal property of the builder and may be removed by him or her).

house. The district court found that after the hog house was built, Mr. Doeden had sole use of the building, paid for all maintenance, carried the building on his depreciation schedule, and insured the building. With respect to the machine shed, the district court found that Mr. Doeden used $13,000 in insurance proceeds paid directly to him and $29,000 in out-of-pocket expenses to construct the machine shed. Like the hog house, the machine shed was insured and maintained by Mr. Doeden, and was depreciated on Mr. Doeden's tax returns. Further, while testifying at trial, appellant repeatedly indicated that she believed that both the hog house and machine shed belonged to Mr. Doeden. The district court found that the hog house and machine shed were built by Mr. Doeden, who had no interest in appellant's real property. Thus, the issue of ownership of the buildings was pleaded and tried, and the district court concluded that both the hog house and the machine shed were Mr. Doeden's personal property. The record reasonably supports the district court's findings, which are not clearly erroneous, and the district court did not err in applying the law.

Appellant also argues that respondent is not entitled to compensation for the structures because any interest in real property must be reflected in writing in order to comply with the statute of frauds. Minn. Stat. § 513.04 (2008). But, as discussed *supra*, the district court correctly determined that respondent had a *personal property interest* in the hog house and machine shed.

Affirmed.