STATE OF MICHIGAN

COURT OF APPEALS

BLUE WATER BEAGLE CLUB,

Plaintiff-Appellee-Cross-Appellee,

v

SOULLIERE LAND, INCORPORATED,

Defendant-Appellant,

and

KIRK SOULLIERE LAND CORPORATION,

Defendant-Cross-Appellant.

UNPUBLISHED
July 25, 2006

No. 268043
Macomb Circuit Court
LC No. 05-001379-CK

Before: Neff, P.J. and Bandstra and Zahra, JJ.

PER CURIAM.

Defendants appeal[1] as of right from the circuit court's order granting plaintiff's motion for summary disposition, and requiring specific performance of a land contract. We affirm. This appeal is being decided without oral argument in accordance with MCR 7.214(E).

Defendant Soulliere Land, Inc. (SLI) and plaintiff executed a lease and option to buy, concerning a parcel of land owned by SLI. The main body of the lease specifies that its term begins June 18, 1992, and includes the typewritten interpolation that "this instrument also constitutes an option to buy the . . . property on Land Contract within a Three (3) year option period from the date of signing this instrument," then references an addendum. The latter in turn reiterates an option term of three years, and a purchase price and terms for payment in connection with that option, and finishes with the following handwritten interpolation:

[1] Defendant Soulliere Land, Inc., filed an ordinary claim of appeal, but defendant Kirk Soulliere Land Corporation filed a claim of cross-appeal. However, having lost below, the latter's status as an ordinary appellant, not a cross-appellant, is clear. We overlook this minor error with no prejudice to that party.

> 16. It is further understood between seller/lessor and purchaser/lessee that their [sic] is a cloud encumbrance on seller lessor's deed to subject property that seller/lessor agree's [sic] to put forth best legal efforts to clear title deed to subject property. Seller/lessor also agrees to extend lease to subject property to purchaser/lessee for an additional 10 years (ten) on same terms as original lease except that seller/lessor has the right to increase lease payment term no more than 6% per year for the additional 10 year lease period.

These documents are both signed on behalf of SLI and plaintiff, but no dates accompany the signatures, beyond a notary's indication, "expires 10-15-95." The handwritten interpolation is initialed by the singers. Plaintiff's original complaint specifies June 18, 1992, as the date the lease and option to buy was executed, but asserted that "the parties then negotiated an addition to the Addendum which was added in as a handwritten paragraph 16," thus implying that the terms of that interpolation were agreed upon at some later, unspecified, date.

By way of a warranty deed executed on November 2, 1995, SLI purported to convey its interest in the subject property to defendant Kirk Soulliere Land Corporation (KSLC), for one dollar.

In February 2005, plaintiff indicated that it wished to exercise its option to purchase the subject property. When defendants refused to sell, plaintiff filed suit seeking specific performance. Plaintiff's amended complaint adds KSLC as a defendant, but expresses doubts concerning whether SLI's conveyance of the subject property to KSLC "represents a legitimate intention to convey SLI's entire interest."

On cross motions for summary disposition, the trial court agreed with plaintiff, explaining as follows:

> Well, paragraph 16 looks like it was pretty carefully crafted. . . .
>
> > The ten-year lease period incorporates the terms of the . . . original three-year lease. They carefully considered an additional term by adding the clause . . . to increase the lease payment no more than six years [sic]. And careful gentlemen like this, certainly, at that point in time, I think would have very carefully spelled out the option to purchase the property is extinguished at the end of the three-year period. The intention of the parties was to incorporate all the terms of the lease. The intention of the parties was to sell the property at the option of eighty thousand dollars.

We review a trial court's decision on a motion for summary disposition de novo as a question of law. *Ardt v Titan Ins Co*, 233 Mich App 685, 688; 593 NW2d 215 (1999). Contract interpretation also presents a question of law, calling for review de novo. *Archambo v Lawyers Title Ins Corp*, 466 Mich 402, 408; 646 NW2d 170 (2002). The parties stake their positions not on extrinsic evidence, but on the four corners of the contract. "Where the language of a contract is clear and unambiguous, the intent of the parties will be ascertained according to its plain sense and meaning." *Haywood v Fowler*, 190 Mich App 253, 258; 475 NW2d 458 (1991). The various parts of a contract should be read together. See, e.g., *JAM Corp v AARO Disposal, Inc*, 461 Mich 161, 170; 600 NW2d 617 (1999).

Defendants argue that the trial court erred in interpreting the lease extension as extending also the option to buy. We disagree.

The first mention of the duration of any part of the agreement is the typewritten interpolation on the second page of its main body, stating that that instrument "also constitutes an option to buy the . . . property on Land Contract within a Three (3) year option period . . . ." The addendum reiterates that the purchase option "may be exercised at any time within the three (3) year period by the Purchaser/Lessee," and twice later refers to "the Three (3) Year Lease period" (¶¶ 14, 15). The addendum thus refers repeatedly to both lease and option terms established earlier, the logical antecedent for each being the initial establishment of "a Three (3) year option period" as typed into the main body of the agreement. It is thus apparent that the terms of the lease and the term of the option were intended by design to be conterminous.

Paragraph 16 in turn recites that there is a cloud on the title to the property, obligates the seller/lessor to endeavor to clear it, and extends "lease to subject property to purchaser/lessee for an additional 10 years (ten) on same terms as original lease . . . ." Defendants argue that this extended the lease, not the option. But the continued use of the combined designations "seller/lessor" and "purchaser/lessee" indicates that each party retained both statuses for purposes of the extension. Further, the ten-year extension "on the same terms as original lease" thus adds ten years to the original three-year agreement. The original lease provided for no termination of tenancy apart from the three-year option to buy. Because the original terms of the lease and option were conterminous, the extension of the lease "on the same terms" as the original agreement constituted a corresponding extension of the option as well. This reading holds whether paragraph 16 was added when the agreement was first executed, or later in the course of the original three-year term.

Defendants argue that the trial court improperly made factual findings, in regarding paragraph 16 as "carefully considered," and in opining how the parties could have clarified any intention to extend the lease without extending the option. See *Manning v Hazel Park*, 202 Mich App 685, 689; 509 NW2d 874 (1993) (in deciding motions for summary disposition, "[t]he court may not make factual findings or weigh credibility."). We disagree, and instead view the trial court as drawing conclusions from the contract itself, as it was obliged to do, not crediting or discrediting any extrinsic evidence.

For these reasons, the trial court properly granted plaintiff's motion for summary disposition.

Defendant SLI additionally argues that it has not owned the subject property for several years, and thus is in no position to convey the property to plaintiff in any event, and so should have been dismissed from the case. But plaintiff expressed concerns over the legitimacy of SLI's conveyance of the property to KSLC for nominal consideration, and so proceeded against both defendants, and the trial court likewise chose not to distinguish between the two Soulliere entities.

We regard the court's joint treatment of the two defendants as requiring each to convey any interest in the subject property to plaintiff. The order appealed from so indicates, and provides that, "in the event either [SLI] or [KSLC] do not possess a conveyable ownership interest in the above property, said consideration shall be payable only to the party with whom

such conveyable ownership interest resides." Should a dispute emerge concerning SLI's and KSLC's respective interests in the subject property, it will have to be settled in an action to quiet title, not as part of this appeal.

Affirmed.

/s/ Janet T. Neff
/s/ Richard A. Bandstra
/s/ Brian K. Zahra