SUPERIOR COURT
OF THE
STATE OF DELAWARE

RICHARD F. STOKES
JUDGE

1 THE CIRCLE, SUITE 2
SUSSEX COUNTY COURTHOUSE
GEORGETOWN, DE 19947

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RE: ***Richard Snyder, et al v. Jehovah's Witnesses, Inc.***
C.A. No.: 05A-02-001
Submitted: August 10, 2005
Decided: October 28, 2005

Dear Counsel:

This is my decision on Plaintiffs' appeal from the judgment of the Court of Common Pleas. For the reasons set forth herein, the decision below is affirmed.

STATEMENT OF THE CASE

On July 1, 2002, Richard and Marion Snyder ("Plaintiffs") commenced this action against Jehovah's Witnesses, Smyrna Congregation ("Defendant"). The Plaintiffs allege that Defendant fraudulently misrepresented its status as a charitable organization. As a direct result of this misrepresentation, Plaintiffs argue that they have suffered monetary damages and that Defendant has become unjustly enriched.

This dispute arose when Plaintiffs decided to donate a parcel of land located in Smyrna to the Defendant. In the summer of 1988, the Defendant contacted Plaintiffs regarding the possible purchase of approximately 1.5 acres of land in Smyrna. Plaintiffs,

having had "a very good year…as far as gross income was concerned,"[1] concluded that they would receive a greater overall benefit from the donation of the land to Defendant. Mr. Snyder testified that his motivation for the charitable donation at the time was "to be generous to our neighbors and at the same time take a tax deduction."[2] For unknown reasons, the parties then waited until December of that same year before further action was taken.

On December 30, 1988, the parties met and signed various documents, alleged to be contracts for sale and documents of transfer. None of these documents are in evidence. As a result of this meeting, Plaintiffs decided that they were entitled to, and then declared a $75,000 charitable deduction on their 1988 tax return. However, Plaintiffs do not deny that on December 30, 1998 and until the execution of the deed on December 20, 1989, they were the record owners of the property. Mr. Snyder testified that he felt he was eligible to take the deduction because Jehovah's Witnesses had equitable ownership of the property as of December 30, 1988.[3]

The Plaintiffs later had an MAI appraisal on the property and filed an amended return reducing the deduction to $45,000. The Internal Revenue Service ("IRS") eventually disallowed the charitable deduction for the tax year of 1988, concluding that Plaintiffs were still the record owners of the property until December of 1989, and that the alleged "equitable ownership" of Jehovah's Witness, Smyrna Congregation, did not entitle the Plaintiffs to take a charitable deduction. Charitable deductions require a transfer of legal title. The IRS, accordingly, allowed the $45,000 deduction for tax year of 1989, the year when legal title to the property was transferred.

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[1] Tr. at 47

[2] *Id.*

[3] *Id.* at 48

Plaintiffs now allege that the Defendant fraudulently misrepresented itself as a registered corporation under Delaware law. Further, Plaintiffs argue that Defendant was not a charitable organization with tax exempt status, and that the gift of the property should be voided, and Plaintiffs should be awarded damages. However, there is no evidence in the record that the IRS, or anyone except the Plaintiffs have ever questioned the status of Jehovah's Witnesses, Smyrna Congregation as a charitable organization, donations to which are tax deductible.

On January 21, 2005, a trial was held in the Court of Common Pleas. Plaintiffs argued that the Defendant misrepresented itself as a registered charitable organization. Plaintiffs asserted that this intentional misrepresentation fraudulently induced their donation to the organization. Plaintiffs therefore claimed: (1) that the transaction was a nullity based on fraud, or, alternatively, (2) mutual mistake, and (3) that Defendant was unjustly enriched in the amount of $45,000. Plaintiffs further claimed that they have suffered damages: (1) by being under investigation by the IRS, (2) by being subject to a 5% penalty against the 1988 deduction which was disallowed by the IRS, (3) by being potentially subject to severe penalties if it is determined that the Defendant did not exist as registered corporation or charitable organization at the time of donation, and (4) by having not obtained the benefit of a proper deduction in 1988. Plaintiffs claim damages in the amount of "approximately $15,000."[4]

At close of Plaintiffs' case the court below granted Defendant's Motion to Dismiss under Court of Common Pleas Rule 41(b). The court held that the Plaintiffs had "failed to submit sufficient evidence to support [their] claims, or in a fashion sufficient to meet [their] burden of proof, or submit sufficient evidence to prove any damages at this time."[5] From that decision, this appeal was taken.

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[4] *Id*. at 55
[5] *Id*. at 59

STANDARD OF REVIEW

This Court reviews the factual findings and legal conclusions of the Court of Common Pleas in the same manner as the Supreme Court would consider an appeal.[6] The function of this Court is to "correct errors of law and to review the factual findings of the court below to determine if they are sufficiently supported by the record and are the product of an orderly and logical deductive process."[7] First, errors of law are reviewed *de novo*.[8] Second, "if substantial evidence exists for a finding of fact, this Court must accept that ruling, as it must not make its own factual conclusions, weigh evidence, or make credibility determinations."[9] "Substantial evidence" means "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."[10] Substantial evidence is more than a scintilla but less than a preponderance.[11]

Plaintiffs are appealing the decision below to grant the Defendant's Motion to Dismiss under Court of Common Pleas Rule 41(b).[12] If the Plaintiffs are to succeed with this appeal it must be that the record below sufficiently establishes their right to relief.

DISCUSSION

A. Plaintiffs' Allegations of Fraudulent Misrepresentation

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[6] *Fiori v. State*, 2004 WL 1284205, at *1 (Del. Super. Ct.).
[7] *State v. Harris*, 1993 Del. Super, LEXIS 481, at *2 *citing Levitt v. Bouvier*, 287 A.2d 671, 673 (Del. 1972)

[8] *Downs v. State*, 570 A.2d 1142, 1144 (Del. 1990).
[9] *Fiori*, 2004 WL at *1 *citing Johnson v. Chrysler*, 213 A.2d 64 (Del. 1965).
[10] *Olney v. Cooch*, 425 A.2d 610, 614 (Del. 1981).
[11] *Id*.
[12] Here, the pertinent portion of Rule 41(b) states "...After the plaintiff, in an action tried by the Court without a jury, has completed the presentation of plaintiff's evidence, the defendant, without waiving the right to offer evidence in the event the motion is not granted, may move for a dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. The Court as trier of the facts may then determine them and render judgment against the plaintiff or may decline to render any judgment until the close of all the evidence. Unless the Court in its order for dismissal otherwise specifies, a dismissal under this subdivision and any dismissal not provided for in this Rule, other than a dismissal for lack of jurisdiction, for improper venue, or for failure to join a party under Rule 19, operates as an adjudication upon the merits."

Plaintiffs claim that the Defendant intentionally misrepresented its status as a duly registered corporation comporting with the IRS rules for charitable institutions. Plaintiffs contend that absent this misrepresentation the donation would not have occurred. As a result, the Plaintiffs want the contract voided on the grounds of fraud and unjust enrichment.

Common law fraud has been defined by our Supreme Court as having five distinct elements, "requiring that (1) the defendant made a false representation, usually one of fact; (2) the defendant had knowledge or belief that the representation was false, or made the representation with requisite indifference to the truth; (3) the defendant had the intent to induce the plaintiff to act, or refrain from acting; (4) the plaintiff acted or did not act in justifiable reliance on the representation; and (5) the plaintiff suffered damages as a result of such reliance." *Albert v. Alex Brown Management Services, Inc.*, 2005 WL 2130607 (Del.Ch.).

Plaintiffs have not met their burden of proving fraudulent misrepresentation. The facts in the record show that the Defendant approached the Plaintiffs regarding the purchase of the land. Defendant wanted to build a meeting house for its congregation. Instead, in order "to be generous to our neighbors and at the same time take a tax deduction," Plaintiffs opted to donate the land in question.[13] Plaintiff contends that Defendant's fraudulent misrepresentation of fact was that Defendant was as a registered charitable organization, capable of receiving charitable donations. The Court below did not make a finding of fact on that particular issue. However, the IRS acceptance of the charitable donation was substantial evidence offered to the Court below that Defendant had not misrepresented itself.

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[13] Tr. at 47

Even if the court assumes Plaintiffs' allegation to be true, Plaintiffs fail to prove the other four elements of fraud that are required. There is substantial evidence that Defendant did not have the knowledge or belief that this representation was false. First, there is the testimony of Mr. Charles Hopkins as to his understanding of Defendant's organizational status. Second, is the fact that at no time has the Defendant ever held itself out as anything but a charitable religious organization, and has continually operated as such since before the donation. Third, there is the fact that any lapse between the signing of Articles of Incorporation and their delivery to the Register of Deeds was inadvertent. Fourth, there is no question that Defendant is at present a registered corporation as has always been implied and finally, the fact that the IRS has accepted this donation for the year of 1989, shows that this evidence is reliable.

The only evidence on the record as to how the donation was made implies that the donation was the Plaintiffs' idea, brought about after the Defendant inquired about purchasing some of Plaintiffs' land. There is no evidence Defendant ever asked for a donation of the land. Thus, no evidence has been presented to show Defendant ever had the intent to induce Plaintiff to act.

Plaintiffs have presented no evidence to show that their reliance on any representations that may or have not been made was justifiable. The Court of Chancery, in *Poplos v. Norton*, rejected a Buyer's claim for fraud, because his reliance on certain misrepresentations was unreasonable. They found that the Buyer is "bound to act in accordance with reasonable standards of fair dealing, that is, he is expected to use his senses and not rely blindly on the maker's assertion," and also that "the Buyer had both the awareness and the opportunity to discover the accurate information regarding restrictions on the property, but chose not to, the Court held that it was unreasonable for

the Buyer to rely on the seller's assertions alone."[14] If Plaintiffs' own testimony is to be believed, and a main reason for the donation was the charitable deduction, a reasonable donor would have ensured the donation was valid before execution, not over a decade later.

Finally, Plaintiffs have not articulated any actual damages that can be shown to be the result of any reliance that may have been made, as will be discussed below. Accordingly, Plaintiffs have failed to show at least four of the five requisite elements of fraudulent misrepresentation, and an appeal on this ground must be denied.

B. Plaintiffs' Allegations of Mutual Mistake

"Mutual mistake requires both parties to be mistaken as to a material portion of a written agreement. Unilateral mistake requires that one party be mistaken and that the other party know of the mistake but remain silent. *Cerberus Int'l Ltd. v. Apollo Mgmt., L.P.*, 794 A.2d 1141, 1151-52 (Del.2002). Both theories of mistake, however, require a showing that "the parties came to a specific prior understanding that differed materially from the written agreement." *Id.*"[15]

Plaintiff has failed to show how his prior understanding that he would donate his land to a charitable religious organization, in order to take a tax deduction from the IRS has differed materially from any written agreement. In fact, Plaintiff has even failed to produce any written agreement that alleges any terms that may have been understood. Accordingly, Plaintiffs' claims of mutual mistake cannot be upheld by this Court.

C. Damages

a. Unjust Enrichment

[14] *Wilmington Savings Fund Society v. Chillibilly's Inc.*, 2005 WL 730060, *citing Poplos v, Norton*, 1983 Del. Ch. LEXIS 402, at *11.
[15] *Bae Systems North America Inc. v. Lockheed Martin Corp.*, 2004 WL 1739522, at *6

Mr. Snyder in his testimony asserts that "my wife and I donated a piece of property worth $45,000 to a non-existent entity, I call that unjust enrichment."[16] However, our Supreme Court has established a different definition, defining unjust enrichment as: "the unjust retention of a benefit to the loss of another, or the retention of money or property of another against the fundamental principles of justice or equity and good conscience. To obtain restitution … plaintiffs [are] required to show that the defendants were unjustly enriched, that the defendants secured a benefit, and that it would be unconscionable to allow them to retain that benefit."[17]

This Court fails to understand how Defendant was benefitted to the loss of Plaintiff when both parties to this transaction received exactly the benefit the transaction intended. Defendant received the land for its congregation house, and Plaintiffs were successful in being generous to their neighbors and taking a tax deduction. A more compelling argument can be made that it would be against the fundamental principles of justice, equity and good conscience for Defendant to have to return the land upon which they built their congregation house, because Plaintiffs incorrectly understood their eligibility to take a deduction in their taxes in a given year.

Additionally, this Court notes that any possible deficiencies is in the status of the Defendant have since been resolved, allowing for the original intentions of the parties to be met. Because those deficiencies have been remedied there is no unjust enrichment in the retention of the land by the Defendant.[18]

For the above reasons, the judgment of the Court below, that Plaintiffs have failed to meet the burden of proof required for a claim of unjust enrichment, is not to be disturbed.

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[16] Tr. at 55

[17] *Korn v. New Castle County*, 2005 WL 2266590 (Del. Ch.), *citing Schock v. Nash*, 732 A.2d. 217, 232-233 (Del. 1999).

[18] *Korn*, 2005 WL 2266590 at *13

b. Further Damages

Plaintiffs allege that they have further damages as follows: (1) by being under investigation by the IRS, (2) by being subject to a 5% penalty against the 1988 deduction which was disallowed by the IRS, (3) by being potentially subject to severe penalties if it is determined that the Defendant did not exist as registered corporation or charitable organization at the time of donation, and (4) by having not obtained the benefit of a proper deduction in 1988. Plaintiffs claim damages in the amount of "approximately $15,000."[19]

The evidence shows that the Plaintiffs claimed the deduction against their 1988 income tax in the mistaken belief that their execution of a contract to grant the property in 1988 gave rise to a valid deduction in that year, apparently relying on the Doctrine of Equitable Conversion. However, Plaintiffs do not give the basis upon which they drew this conclusion.[20] Regardless, Plaintiffs do not challenge the IRS's determination of Plaintiffs' legal possession of the property until 1989, nor do they claim that the alleged misrepresentation affected the date the property was eventually deeded. In 2001 the IRS disallowed the deduction for the 1988 tax year and assessed a 5% penalty against Plaintiffs for their mistake. The IRS then allowed the deduction for 1989, explaining that the deduction was valid only upon the passing of record title to the Defendant on December 20, 1989.

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[19] Tr. at 55

[20] There is no evidence in the record to explain why the parties did not simply transfer the deed to the property during their meeting on December 20, 1988. The purpose of the Doctrine of Equitable Conversion is to ensure that once a binding contract is executed, both sides follow through on it. Under the Doctrine, equitable title vests in the purchaser and the vendor holds legal title only as a security for payment of the balance of the purchase price. In this case however, the Plaintiffs donated the land for $10.00 of consideration from Defendant. There was no need to wait almost a full year before transferring the deed. There are no facts in the record as to why the parties decided not to complete the transaction on December 20, 1988, but as the donating party, Plaintiffs presumably held control over the transaction and chose not to complete it until 1989.

There has been no evidence provided that the IRS has questioned, or ever will question the status of Jehovah Witnesses Smyrna Congregation as a charitable organization, donations to which are tax deductible. On the contrary, the mere fact that the IRS has already allowed the deduction for the year 1989 is *per se* evidence that the IRS viewed the Defendant as a charitable organization to which Plaintiff's donation was properly tax-deductible.

In fact, Plaintiffs do not even argue that the disallowance of the deduction for the 1988 tax year was the fault of the Defendant. Rather, they claim that they are entitled to damages because it is possible that the IRS will re-open their 1989 tax returns and ultimately deny the deduction for that year. Regardless of how Plaintiffs frame their argument, the result is the same. Plaintiffs have suffered no monetary damage that can be attributable to Defendant.

The Court below correctly stated that "the evidence submitted …indicates that [Plaintiffs] have been granted a charitable deduction for 1989. It was not granted, and disallowed, for 1988. I do not see any evidence before the Court that anything the Defendant did caused that 1988 disallowance. It looks to me, sir, as if it was your error in filing, and claiming that deduction too early."[21] Plaintiffs cannot enter into a good faith agreement with Defendant, and then, due to their own error, try to rescind the agreement when they do not get the benefit that they had, apparently unreasonably, expected.

The court below was correct in its determination that nothing that the Defendants have done caused any of the alleged "further damages" for which Plaintiffs ask relief, and that the claims they do assert are too speculative for the court to award damages.

CONCLUSION

[21] Tr. at 59.

Considering the foregoing, the decision of the Court below, that the case should be dismissed under Civil Rule 41(b), for failure of the Plaintiffs to show a right to relief, to submit sufficient evidence to support their claims in a fashion sufficient to meet their burden of proof, or prove any damages, is affirmed.

IT IS SO ORDERED.

Very truly yours,

Richard F. Stokes

cc: Prothonotary