UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 43

September Term, 2014

DENNIS VAN DUSEN

v.

REBECCA PRYWES, ET AL.

Eyler, Deborah S.,
Hotten,
Nazarian,

JJ.

Opinion by Eyler, Deborah S., J.

Filed: May 13, 2015

In the Circuit Court for Montgomery County, Rebecca Prywes and Keith Woodhams, Jr., the appellees, sued Dennis Van Dusen, the appellant, for invasion of privacy. They alleged that Prywes rented a room in Van Dusen's house in Chevy Chase (the "Property"); that Van Dusen surreptitiously installed a hidden camera in the room; and that he recorded the appellees without their consent.

The case was tried to a jury, which awarded Prywes $341,275 in compensatory damages and $300,000 in punitive damages; and awarded Woodhams $301,429.17 in compensatory damages and $100,000 in punitive damages.[1] Van Dusen filed a "Motion for New Trial and in the Alternative Remittitur," which the appellees opposed. The court denied the motion.

Van Dusen presents three questions on appeal, which we have rephrased:

I. Do the punitive damages awards violate the Due Process Clause of the Fourteenth Amendment to the Federal Constitution by being grossly excessive?

II. Did the trial court abuse its discretion in denying his motion for new trial?

III. Did the circuit court err in its rulings on the fraudulent conveyance claim?[2]

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[1]The total of all the compensatory damages awarded was $642,704.17. Prywes's compensatory damages consisted of $510 in past medical expenses; $31,200 for future medical expenses; $600 in lost wages; $8,965 in other damages; and $300,000 in non-economic damages. Woodhams's compensatory damages consisted of: $1,429.17 in past medical expenses and $300,000 in non-economic damages.

[2]As worded by Van Dusen, the questions presented are:

1. Was the trial court's award of punitive damages prohibited under the Due

(continued...)

We shall affirm the judgments.

FACTS AND PROCEEDINGS

Beginning on January 1, 2012, Prywes rented an upstairs room at the Property from Van Dusen. In April of 2012, she rented a different room from him, in the basement of the Property. Shortly thereafter, in June of 2012, she began dating Woodhams, who regularly visited her in her room.

Before Prywes changed rooms, Van Dusen installed a hidden camera in the smoke detector of the basement room. The camera operated on a motion detector and recorded all activity inside the room. The recordings were stored on a computer hard drive in Van Dusen's living area of the Property.

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[2](...continued)

Process Clause of the Fourteenth Amendment, as being grossly excessive, per *BMW of N. Am., Inc. v. Gore*?

2. Did the court below err by denying Appellant's Motion for Partial Summary Judgment on Fraudulent Conveyance was Erroneous, [sic] denying Appellant's Motion To Release Pre-judgment Encumbrance of 6910 Ridgewood Avenue; denying Appellant's Spouse's Motion To Dismiss Amended Complaint; by setting aside the conveyance of 6910 Ridgewood Avenue as a fraudulent conveyance pursuant to Md. Code (2000), §§ 15-206 and 15-207 of the Commercial Law Article; or by setting aside the conveyance of 6910 Ridgewood Avenue as fraudulent conveyance pursuant to Md. Code Ann., Fam. Law § 4-301(2)(i) where the property was re-titled into Tenancy by The Entireties of the Family Home to the Appellant's Spouse who at that time was entitled to substantial marital property fairly equivalent to the value received, and the court was aware that grantee, Appellant's Spouse, had no foreknowledge of the transaction[?]

3. Did the trial court abuse its discretion when it failed to grant a new trial or reduce damages[?]

(Footnotes omitted.)

On October 12, 2012, the appellees discovered the hidden camera in the smoke detector. They contacted the Montgomery County Police Department ("MCPD"), and officers responded to the Property. After inspecting Prywes's room, they asked Van Dusen for permission to search the Property. He refused. The officers then obtained a search warrant. They seized Van Dusen's laptop and some hard drives, from which an MCPD forensic expert recovered the recordings of Prywes's room. Some of the recordings showed the appellees engaging in sexual acts.

Prywes immediately moved out of the Property and in with Woodhams, who was living with his mother and brother at the time. They later broke up.

On December 7, 2012, the appellees filed suit against Van Dusen, each stating one count of invasion of privacy. They sought compensatory and punitive damages.

On January 18, 2013, the appellees filed a request for writ of attachment before judgment against the Property. They alleged that Van Dusen was the sole owner of the Property, and that they "believe[d] that [he would] assign or dispose of his real property . . . with the intent of making himself judgment proof." The court granted the request by order entered March 5, 2013.

In the meantime, on February 13, 2013, Van Dusen conveyed the Property to himself and his wife, Irina, as tenants by the entirety. (Van Dusen and his wife had been separated for over ten years at that time.) Upon discovering the conveyance, the appellees filed an amended complaint adding counts for fraudulent conveyance, and including Irina as a defendant on those counts.

On April 16, 2013, Van Dusen pleaded guilty in the Circuit Court for Montgomery County to three counts of violating Md. Code (2002, 2012 Repl. Vol.) section 3-902(c) of the Criminal Law Article ("CL"). One count was based on his visual surveillance of the appellees. The other two counts were based on the same conduct perpetrated against two other tenants of the Property and their boyfriends. For each count, the court imposed a one-year sentence (running consecutively), all suspended in favor of five years' supervised probation. The court also imposed a single $2,500 fine.

On January 17, 2014, Van Dusen and Irina executed a quitclaim deed, by which Irina "release[d], remise[d] and forever quitclaim[ed] unto . . . Van Dusen all of her interest, if any, in" the Property. Six days later, on January 23, 2014, Irina filed a motion to dismiss the fraudulent conveyance claim.[3]

All parties appeared for trial on January 27, 2014. Preliminarily, the court addressed Irina's motion to dismiss. After Van Dusen stipulated "that the Attachment before J[udgment] Granted March 5, 2013 . . . shall not be challenged with in [sic] this or any other proceeding," the appellees consented to the dismissal and the court granted Irina's motion.[4]

[3]Both Van Dusen and Irina, who have since divorced, maintained that the conveyance was made by Van Dusen without Irina's knowledge. Van Dusen claimed that he executed the conveyance to give Irina her marital share of the Property, not to protect himself from judgment.

[4]Counsel for Irina stated that he was not "taking any position on whether the fraudulent conveyance counts should stand or should be dismissed by the court." He was only asking "[t]hat the fraudulent conveyance counts be dismissed as to" Irina, and "that she . . . be dismissed from the case." The court ruled that "[t]he matter is dismissed as to Irina (continued...)

The trial went forward on the invasion of privacy claims. Two days later, on January 29, 2014, at the close of all the evidence, the court granted judgment in favor of the appellees on liability. The jurors returned a verdict that day for compensatory damages, and a special verdict finding that punitive damages were warranted because Van Dusen had acted with actual malice.

The next day, evidence was taken on punitive damages. Van Dusen testified that his ability to pay punitive damages was severely limited due to his financial circumstances. The parties introduced evidence pertaining to Van Dusen's income and assets. The jury deliberated and, as noted, returned verdicts of $300,000 in punitive damages to Prywes and $100,000 in punitive damages to Woodhams. On February 18, 2014, the court entered judgments in accordance with the jury's verdicts.

Meanwhile, on February 11, 2014, Van Dusen filed his motion for new trial. His primary challenge was to the "shockingly excessive" amounts of the non-economic and punitive damages awards. He made a number of other challenges as well. The appellees opposed the motion.

[4](...continued)
. . . ." Shortly thereafter, before opening statements, the trial judge said "[t]he issue of fraudulent conveyance . . . is out by stipulation." He then clarified, "it's moot by stipulation." Neither party objected and the fraudulent conveyance counts were not presented to the jury for deliberation.

On March 11, 2014, the court held a hearing on the motion for new trial.[5] The court denied the motion by order entered on March 18, 2014. That same day, Van Dusen, no longer represented by counsel, filed a notice of appeal.[6]

We will include additional facts as necessary to our discussion.

DISCUSSION

I.

Constitutionality

Van Dusen contends that the punitive damages awards are "prohibited under the Due Process Clause of the Fourteenth Amendment" because they are "grossly excessive." This constitutional issue was neither raised nor decided by the circuit court. Accordingly, it is not properly before us for review. Md. Rule 8-131(a).

II.

Denial of Motion For New Trial

Van Dusen contends the trial court erred in denying his motion for new trial on several grounds: the punitive damages awards were excessive; the non-economic damages awards

[5]The notice of hearing, dated March 7, 2014, stated that this hearing was on "punitive damages." Before the jury returned its verdict on punitive damages, the trial judge said, "under the law, I'm required to review a punitive damages award." However, following the verdict, the judge told defense counsel that he could "file [his] motion for the remitter [sic] or new trial and make it part and parcel to the whole thing." In his motion for new trial, Van Dusen argued that the punitive damages awards were excessive.

[6]On March 24, 2014, Van Dusen filed an amended notice of appeal to correct his improper reference to Rule 12-301, as opposed to Rule 8-202, as authority for filing his notice of appeal.

were excessive; actual malice was not properly pleaded or proven and punitive damages were not properly pleaded; during trial, the court improperly allowed a portion of his deposition to be played for the jury; during trial, the court improperly prohibited him from introducing certain "mitigation" evidence; and the trial judge was biased against him.

"The standard of review of the denial of a motion for new trial is abuse of discretion." *Univ. of Md. Med. Sys. Corp. v. Gholston*, 203 Md. App. 321, 329 (2012) (citing *Miller v. State*, 380 Md. 1, 92 (2004)). "[A] claim that the verdict is against the weight of the evidence requires assessment of credibility and assignment of weight to evidence–a task for the trial judge." *Buck v. Cam's Broadloom Rugs, Inc.*, 328 Md. 51, 60 (1992). For that reason, we afford deference to the trial court's exercise of discretion to deny a motion for new trial based on such a claim.

Punitive Damages

We consider *de novo* whether the punitive damages awards are excessive under Maryland common law. *Khalifa v. Shannon*, 404 Md. 107, 142 (2008). We view the evidence in the light most favorable to the plaintiffs and apply the relevant factors articulated in *Bowden v. Caldor*, 350 Md. 4, 42 (1998). Those factors, as argued by Van Dusen on appeal, are that the awards are "disproportionate to the gravity of [his] wrong"; that they are disproportionate to the criminal fine imposed against him; and that they are beyond his ability to pay. The appellees respond that the punitive damages awards are commensurate with "Van Dusen's deceitful and invasive" conduct; are justified given "[t]he heinousness of Van Dusen's systematic and prurient video surveillance"; and are not "unreasonable or excessive."

(a)

"The most important legal rule . . . applicable to every punitive damages award, is that the amount of punitive damages must not be disproportionate to the gravity of the defendant's wrong." *Bowden*, 350 Md. at 27 (citations and internal quotation marks omitted). In the case at bar, Van Dusen's conduct was reprehensible. He hid a camera in Prywes's room, which was her home and therefore the place where she would have had the highest expectation of privacy, and surreptitiously recorded her for an extended period of time. When Woodhams visited her, he was recorded as well. The recordings included their most intimate moments.

Whether the plaintiff "suffered any serious lasting effects" is relevant to "the degree of heinousness" of a defendant's conduct. *Id.* at 27, 42. Prywes testified that since discovering the camera she "never feel[s] alone," even when she's in a "private place" and that, when she goes out, she is aware of cameras "[a]ll the time." She has difficulty trusting people and does not "want[] to live with anyone or around anybody [she doesn't] know that well or anything like that." Woodhams testified about suffering similar effects. He said, "I mean, I definitely have trouble connecting with people now, and kind of letting them in to who I am and just taking their word or even believing in what they're saying."

The appellees' testimony was supported by opinions of expert witnesses. John Burke Mealy, Ph.D., a clinical psychologist who evaluated Woodhams, testified that "the disturbance in [Woodhams's] sense of trust will endure for a long time," and that "he's definitely going to have emotional aftermath." Jack Blaine, M.D., a psychiatrist who had treated Prywes previously, testified that the violation of her privacy had "exacerbated" a previous "anxiety

disorder." He opined that she would benefit from future treatment because "she has suffered from the trauma and has some aspects of posttraumatic stress." We must assume that the jury credited this testimony and found that Van Dusen's conduct has had lasting negative psychological effects on the appellees.

Van Dusen maintains, however, that his conduct was not grave enough to warrant the punitive damages awards because, although the appellees were recorded while engaged in sexual relations, they "were [un]aware" that he was recording them; his conduct was the result of a "mental condition"; and he did not intend to cause injury or commit fraud and "his admitted intent was to obtain only a respite from the stresses, shame, and indignities he was suffering at the time."

There is no merit in Van Dusen's argument that the gravity of his conduct was mitigated by the fact that he hid the camera so (as he sees it) the appellees were spared of the knowledge that they were being recorded when they were having sex. Indeed, this argument is ludicrous. If the camera had been in plain view, Prywes would have seen it right away and Van Dusen's plan to watch her every private act would have been foiled. Van Dusen hid the camera to enable him to invade the appellees' privacy to satisfy his own prurient interests. Furthermore, there was no evidence, expert or otherwise, to support Van Dusen's self-diagnosed "mental condition." Finally, his "admitted intent" is immaterial because we must assume that the jury disbelieved his testimony about what he intended.

The jury's punitive damages awards to Prywes and Woodhams were not disproportionate to the gravity of Van Dusen's reprehensible conduct.

(b)

Van Dusen asserts that the $400,000 punitive damages awards were disproportionate to the $2,500 fine imposed upon him for violating CL section 3-902(c), which prohibits conducting, with prurient intent, visual surveillance of an individual. The appellees respond that "Van Dusen's limited fine under [CL section] 3-902, ostensibly reached as part of his plea deal, does not support a reduction of the punitive awards."

In *Bowden*, the Court recognized that for many criminal offenses, particularly those "chiefly aimed at individuals, . . . the principal sanction is imprisonment, and the monetary penalty is relatively small." 350 Md. at 31. With these types of offenses, "the criminal fine for similar misconduct is not very pertinent in reviewing an award of punitive damages." *Id*. Here, the amount of the fine, when compared to the amount of the punitive damages awards, does not militate in favor of a finding that the punitive damages awards against Van Dusen were excessive.[7]

(c)

Van Dusen argues that the evidence showed that "[t]he punitives . . . [are] disproportionate to [his] ability to pay." He states that, when the punitive damages were awarded, he "was unemployed without prospects, 65 years old, with no cash, $250,000 in student debt, and home equity of only $300,000 before any judgment." The appellees respond

[7]The circuit court noted that, given how long Van Dusen had recorded the appellees, he could have been charged with multiple violations of CL section 3-902(c) as to each appellee. The State's decision to level one charge and then to enter into a plea agreement should not limit Van Dusen's liability for punitive damages.

that "[t]he jury was at liberty to consider [Van Dusen's] testimony of alleged debts . . . as not credible." Assuming the jury discredited Van Dusen's testimony, the punitive damages awards were not excessive because they were "not designed or intended to bankrupt" Van Dusen. The appellees also respond that Van Dusen's "ability and potential to continue to work" are relevant considerations that support the punitive damages awards.

"[T]he amount of punitive damages 'should not be disproportionate to . . . the defendant's ability to pay" because "[t]he purpose of punitive damages is not to bankrupt or impoverish a defendant." *Bowden*, 350 Md. at 28 (citations omitted). "[A] defendant's ability to pay is 'a limiting factor which must be considered by the . . . trial court upon its review of the jury's award.'" *Id*. (quoting *Fraidin v. Weitzman*, 93 Md. App. 168, 212-15 (1992)). Therefore, "evidence of a defendant's financial condition is relevant in determining whether a jury's award of punitive damages is excessive." *Darcars Motors of Silver Spring, Inc. v. Borzym*, 379 Md. 249, 275 (2004) (citing *Bowden*, 350 Md. at 28-29). However, "a plaintiff has no obligation to establish a defendant's ability to pay punitive damages." *Id*. *Accord Khalifa*, 404 Md. at 143-45.

During the punitive damages hearing, Van Dusen testified that he believed the Property was worth more than $1.1 million. He based this estimate on an offer to purchase the Property that he rejected. He also testified that he owed approximately $638,000 on two mortgage loans against the Property.[8] He estimated that his monthly payments on those loans totaled

[8] Van Dusen stated that the first mortgage holder is "FNBA, First National Bank" and (continued...)

$5,756. Van Dusen also testified that he owed $257,000 in educational debt. A student loan statement, dated January 1, 2014, was introduced into evidence. It stated that the current principal balance was $237,223.44. Van Dusen testified that his "payment on that's zero because [he didn't] have any income."

Van Dusen further testified that his yearly earnings were only $18,000 and that his businesses were not profitable. Specifically, concerning OnPoint Legal, LLC ("OnPoint"), a company that he "founded in 2008," Van Dusen testified that he "didn't have any tax returns yet" because the company "[d]idn't make any money in 2009, 10, or 11." Van Dusen also testified that the "huge amount" of media coverage surrounding his case was negatively affecting his ability to earn an income.

Financial records of Van Dusen that were admitted into evidence showed a fixed equity loan against the Property held by Navy Federal Credit Union ("NFCU"), with a loan balance, as of January 17, 2014, of $108,234.90. A deed of trust, executed by Van Dusen on September 13, 2005, also was admitted into evidence. It created a lien on the Property and secured to NFCU the repayment of a promissory note in the principal sum of $150,000.[9] There were no documents introduced to show that there were any other mortgages or liens against the Property.

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[8](...continued)
the balance on that loan "could be $582,000," but he "think[s] it's $532,000." He stated that he "believe[d]" the balance on the second loan was "$106,000."

[9]Because we view the evidence in the light most favorable to the appellees, we assume that these records refer to the same loan. Van Dusen did not testify to the contrary.

Two sets of bank statements also were introduced. The first set, from NFCU, was for Van Dusen's personal checking and savings accounts from November 20, 2013 through January 19, 2014. The second set, from PNC Bank, was for OnPoint's business checking account from October 1, 2013, through December 31, 2013. The statements reflected a number of large deposits made not long before trial. For example, on January 14, 2014, less than two weeks before trial, $21,000 was deposited into Van Dusen's checking account. Additionally, on November 26, 2013, three deposits, totaling $15,500, were made into OnPoint's account.[10]

Van Dusen contends that, given his testimony, "[t]he jury had to understand that . . . any award of punitives would clearly impoverish" him; and "[a]ny punitive damages awarded in the instant case could not benefit society." The flaw in this argument is that it presumes that the jury believed Van Dusen's testimony. As previously stated, we view the facts in the light most favorable to the appellees. Those facts show that the Property is worth more than $1.1 million. Even assuming the authenticity of the NFCU loan statement, Van Dusen had approximately $1 million in equity in the Property. And if the educational debt loan statement was correct, his net worth still was at least $750,000.

The jury was free to draw a reasonable inference that Van Dusen's yearly income was greater than $18,000. At trial, Van Dusen testified that he holds numerous advanced degrees:

[10]When asked about the deposits into the OnPoint account, Van Dusen stated "[t]his is a client account," that the "transaction" was to "pa[y his] expenses," and that he thought his "net on that was $100."

"a Master's degree in Computer Science and Electrical Engineering from Penn State"; "a Master's of Applied Math from Harvard"; "a Master's of Engineering and Information Sciences, which included a joint program at Harvard Business School"; and "a J.D. degree . . . from University of District of Columbia." And, as noted, his bank statements showed significant deposits into his accounts not long before trial. Viewing the evidence in the light most favorable to the appellees, the punitive damages awards were not disproportionate to Van Dusen's ability to pay.

Non-economic Damages

Van Dusen makes two arguments to support his contention that the non-economic damages awards were "shockingly excessive" and against the weight of the evidence on the issue of actual harm. First, he maintains that the appellees did not suffer any emotional distress resulting from the termination of their relationship. Specifically, Prywes's relationship with Woodhams was "not harmed" by Van Dusen's conduct because she "had broken off [her] relationship[with Woodhams] at least once . . . prior to [her] discovery of [Van Dusen's] bad acts"; and the impact of the surveillance on Woodhams was "much less" than on Prywes because Woodhams quickly became involved with another woman. Second, he asserts that, because the awards were precisely "what [the appellees'] counsel requested" and "[t]he reasoning behind the awards was not explained and possibly lacking," the jury must have acted with "passion, caprice, and prejudice," seeking "to punish" him, rather than "evaluat[ing] . . . the evidence under the charges from the court." These arguments are without merit.

The jury's decision to award non-economic damages in the amount requested by the appellees' counsel is irrelevant, so long as the amounts of the awards are supported by the evidence, which they are. In addition to the evidence of the lasting emotional effects Van Dusen's conduct had on the appellees, discussed above, there was evidence that the appellees both suffered emotional distress in the immediate aftermath of the discovery of the hidden camera, including the upheaval of Prywes's precipitous move out of the Property and into Woodhams's mother's home, which put significant strain on them and contributed to the demise of their relationship. We must assume that the jury considered the couple's past history and their relationships with others after the discovery of the hidden camera and either found those facts unimportant or properly factored them into the amount of non-economic damages awarded.

It is unclear what Van Dusen means by his assertion that the jury's award of non-economic damages awards were "not explained," and he does not elaborate. The court instructed the jury that non-economic damages are "[a]ll damages that you find for pain, suffering, inconvenience, or other non-pecuniary injury." Van Dusen does not contend this instruction was improper and "[t]here is a presumption that jurors understand and follow the court's instructions." *Pulte Home Corp. v. Parex, Inc.*, 174 Md. App. 681, 769 (2007) (citation and internal quotation marks omitted). To the extent Van Dusen thinks the jurors were required to explain their verdict, he is plainly mistaken.[11]

[11] In arguing that the punitive damages awards were excessive, Van Dusen briefly (continued...)

Pleading and Proving Actual Malice and Punitive Damages

Van Dusen argues the motion for new trial should have been granted because the appellees failed to prove actual malice and did not properly plead a claim for punitive damages, thus precluding any award of punitive damages. The appellees respond that Van Dusen never argued below, at any time (including in the motion for new trial), that actual malice was not proven; and that he failed to preserve the pleading issue by not raising it prior to filing the new trial motion, and it lacks merit in any event.

The sufficiency of the evidence of actual malice was not raised or decided below, and therefore is not preserved for review. Md. Rule 8-131(a).

Van Dusen's argument that the court erred in denying his motion for new trial on the ground that the appellees failed to properly plead a claim for punitive damages is preserved for review. A "trial court may grant a new trial for any reason that will support its determination that a party was denied a fair trial;" the court is not precluded "from granting a new trial on the basis of an issue that could have been, but was not raised during trial." *Buck*, 328 Md. at 61 (quoting *Cam's Rugs v. Buck*, 87 Md. App. 561, 575-76 (1991)) (internal quotation marks omitted). However, "the failure of the moving party to object to an alleged error or impropriety at trial [or before] is a significant factor to be considered by the trial

[11](...continued)
states that the "ratio" between compensatory and punitive damages "is not at issue except if the compensatory damages are significantly reduced." As we have explained, the non-economic damages awards were not excessive and there is no basis for any reduction in compensatory damages.

judge when that error is later argued in support of a motion for new trial." *Buck*, 328 Md. at 62.

Van Dusen argues that the appellees failed to properly plead a claim for punitive damages because they did not allege "facts regarding actual malice." Van Dusen could have raised this argument well before trial in a motion to dismiss. *See id*. ("A motion for new trial should not be an opportunity to 'sandbag' an opponent, nor ordinarily to correct oversights that might have been remedied at trial [or before] if seasonably noted."). Had he done so, it would have given the appellees an opportunity to respond, or, if necessary, to file a second amended complaint. At trial, Van Dusen did not move for judgment on the issue of actual malice. Nor did he object to the court's instructing the jury about the purpose of punitive damages, the meaning of actual malice, and the appellees' burden to prove, by clear and convincing evidence, that Van Dusen acted with actual malice. The trial court did not abuse its discretion by denying the motion for new trial on this ground when Van Dusen had had ample opportunity to raise it before and during trial, and did not do so.

Playing of Van Dusen's Deposition

Before opening statements, counsel for the appellees advised the court that she "intend[ed] to play portions of Mr. Van Dusen's video deposition as one of [the] first pieces of evidence in the case."[12] Defense counsel objected, stating,

[12] *See* Md. Rule 2-419(a)(2) ("The deposition of a party . . . may be used by an adverse party for any purpose.").

> certainly Mr. Van Dusen is present and available. I understand that those depositions may be used as an admission of some sort. The reality is those – he wasn't represented during those depositions and they weren't subject to cross-examination or to counsel, so we would object to those depositions.

The court overruled his objection.

Shortly thereafter, defense counsel elaborated that he was concerned because "the video deposition [is] . . . not all admissions; there are denials and other hearsay statements in there." He further stated that he did not think it was appropriate for the appellees to play the video deposition "for his various denial[s]" and then "to impeach him." The trial judge assured defense counsel that he was "not going to allow [the appellees] to put in [Van Dusen's] defense and then impeach him," but that he would allow them to introduce Van Dusen's admissions. Defense counsel responded, "We're not objecting to that."

After opening statements, the appellees played portions of Van Dusen's video deposition. Defense counsel lodged a number of objections, all of which were withdrawn or sustained, except one:

> [PLAINTIFF'S COUNSEL]: Did you ever pleasure yourself while watching any of the videos.
>
> MR. VAN DUSEN: I can't recall –
>
> [DEFENSE COUNSEL]: Objection, your honor.
>
> THE COURT: Overruled.

In his motion for new trial, Van Dusen asked the court to grant a new trial on the ground that

> [t]he court erred in allowing the introduction into evidence of [his d]eposition for the reasons that the videotaped deposition was cumulative on the issue of liability, and was unduly prejudicial without probative value. The deposition was solely used for the purpose to improperly impeach [him] on collateral matters.

The motion for new trial contained nothing more than this blanket assertion of error. Van Dusen did not cite specific portions of the deposition as being introduced in error, nor did he provide legal authority for his argument; and he did not address the issue in the attached memorandum in support. On appeal, Van Dusen simply restates verbatim the above language from his motion for new trial and asserts that the trial court erred in denying his motion on that ground.[13]

The trial court did not abuse its discretion in denying Van Dusen's motion for new trial on this ground. Defense counsel expressly waived any objection to the deposition being introduced to show admissions by Van Dusen. The deposition excerpt that was played, in which Van Dusen claimed not to remember whether he "pleasure[d] [him]self" while watching the recordings of the appellees, could be taken as a tacit admission. Without any citation to the transcript, the trial court had no way of knowing on what basis Van Dusen was arguing that the deposition was "cumulative" and "unduly prejudicial without probative

[13] In a shotgun approach, Van Dusen argues, in part, that he "submitted to the deposition without counsel because . . . his prior attorney was being ineffective" and that "the mechanism for bringing in testimony regarding prior acts was improper," and that the appellees should have provided his counsel with "the video testimony . . . earlier . . . ." He also argues that "the Judge allowed the questioning of [him] improperly," but cites a part of the trial transcript in which he is being questioned by his own attorney. To the extent that these are additional arguments, independent from the one addressed above, they are not preserved for review.

value." Furthermore, the argument that the "deposition was solely used for the purpose to improperly impeach" Van Dusen is flatly contrary to the court's ruling at trial.

Judicial Bias

Van Dusen asserts that the motion for new trial should have been granted on the basis of judicial bias. He maintains that the trial judge showed bias against him throughout the trial, as evidenced by, among other things, facial expressions and the judge's "great deference to" one of the appellees' attorneys. He directs our attention to three parts of the trial transcript as examples; but his counsel did not object or in any way raise the issue of judicial bias at any of those points in the trial. Moreover, we have reviewed significant portions of the trial transcripts and have not found any point at which the issue of bias on the part of the trial judge was raised. It also was not raised in the motion for new trial. Accordingly, it is not preserved for review.

"Mitigation" Evidence

Finally, Van Dusen argues that the trial court abused its discretion in denying his motion for new trial because the court had erred by not allowing him to testify about "mitigating" facts during trial, before the testimony on punitive damages. This argument also was not made in the motion for new trial, and therefore is not preserved for review.

III.

Fraudulent Conveyance

Van Dusen advances several arguments challenging the trial court's rulings on the fraudulent conveyance claims. The appellees argue that the issues are not properly before the

Court because the fraudulent conveyance claims were dismissed by stipulation of all parties. Because Van Dusen consented to the dismissal, he cannot challenge prior rulings concerning the claims.

Van Dusen concedes that "the fraudulent conveyance charge[s] w[ere] dropped in this matter." He urges us to address his arguments anyway because, in another civil suit brought against him by another tenant of the Property there was a claim for the fraudulent conveyance that "was directed in the verdict." Rulings by a circuit court in another case against Van Dusen are not before us here, however.

JUDGMENTS OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY AFFIRMED. COSTS TO BE PAID BY THE APPELLANT.