Circuit Court for Prince George's County
Case No. CAL19-15799

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1504

September Term, 2020

JEWELET PEARSON

v.

TYRONE SHARPE

Kehoe,
Nazarian,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Kehoe, J.

Filed: May 12, 2022

This appeal stems from a contract dispute between appellant, Jewelet Pearson, and appellee, Tyrone Sharpe. In May 2019, Ms. Pearson filed a two-count complaint against Mr. Sharpe for breach of contract and unjust enrichment in the Circuit Court for Prince George's County. The court presided over a bench trial in November 2020. After the close of the evidence offered by Ms. Pearson, the court granted judgment for Mr. Sharpe on both counts. Ms. Pearson presents three questions for our review,[1] which we rephrase as follows:[2]

1. Did the court err when it granted judgment for Mr. Sharpe on the breach of contract count?

2. Did the court err when it granted judgment for Mr. Sharpe on the unjust enrichment count?

3. Did the court err when it sustained Mr. Sharpe's objections to two of Ms. Pearson's exhibits?

For the reasons to follow, we shall reverse the judgment and remand the case for further proceedings consistent with this opinion.

[1] Mr. Sharpe did not file a brief in this Court.

[2] Ms. Pearson phrases the questions presented as follows:

1. Does Oral Contract for Unjust Enrichment, Inherit Restitutionary Remedies, Prevent Unjust Enrichment?

2. Under the Rules of Evidence can Text Messages be admitted into the Court as Evidence, when the witness is on the witness stand, willing to authenticate the Text Messages[?]

3. Under the Rules of Evidence, is it a violation of Maryland Discovery Rules, for Respondent to withhold Text Messages and an Agreement, that resolve him of all debts, but was not turned over to Petitionary Attorney Doing Discovery?

BACKGROUND

Ms. Pearson was the sole witness at trial. She testified that, after a break in their relationship, Ms. Pearson and Mr. Sharpe reconnected in 2017. At that time, Mr. Sharpe was "backed up in loans" and had "debt that he had to take care of[.]" As a result, they brainstormed ways for Mr. Sharpe to make money. That discussion led to the decision that Mr. Sharpe would "start hauling stuff and maybe snow plowing and leaf raking." He asked Ms. Pearson to borrow money so that he could buy equipment to start his business.

Ms. Pearson explained that Mr. Sharpe had "needed a truck," "a trailer," and a "snow plow[.]" Ms. Pearson agreed to lend funds to Mr. Sharpe for purchases related to his business. She ultimately lent him a total of $71,422.74. According to Ms. Pearson, Mr. Sharpe agreed to pay her $1,500 per month toward the loan, from the proceeds of the business. If the business failed, Ms. Pearson said that Mr. Sharpe agreed to pay her from the money that he earned as an Uber driver. Ms. Pearson owned a dump truck company, in which she "haul[ed] materials from construction sites to dumping areas." Mr. Sharpe agreed that he would assist Ms. Pearson with "managing the truck, . . . dealing with drivers and stuff like that." These discussions occurred during November and December 2017.

By stipulation of the parties, the court admitted into evidence two checks. First, the court admitted a check paid to the order of Mr. Sharpe in the amount of $36,830. Ms. Pearson had obtained that check from her credit union, and she gave that check to Mr.

Sharpe.[3] That check contained the following language: "TO THE ORDER OF TYRONE SHARPE RE: LOAN FOR 3 YEARS[.]" Second, the court admitted a check issued to the order of a third party in the amount of $10,000 for the purchase of a Ford truck. Ms. Pearson gave that check to Mr. Sharpe so that he could purchase the truck from the third party. Both checks cleared in December 2017.

The court also admitted into evidence a copy of Ms. Pearson's credit card statement that showed items that Mr. Sharpe had bought. The court noted that the parties agreed that those purchases totaled $24,592.74. In the fall of 2017, Mr. Sharpe agreed to pay Ms. Pearson for the debt that he incurred on the credit card. Mr. Sharpe incurred those charges on the credit card to buy "things dealing with the business that he was running."

As of the trial date in November 2020, Mr. Sharpe had paid Ms. Pearson a total of $200 towards the $71,422.74 loan.

At some point before trial, Mr. Sharpe dropped off the truck near Ms. Pearson's home, but Mr. Sharpe did not give her the key. At that time, Mr. Sharpe asked Ms. Pearson to sign a proposed agreement, which stated that he would give her the truck, plow, and trailer, if she absolved him of his debt. Ms. Pearson declined that offer.

After Ms. Pearson's counsel rested, Mr. Sharpe's counsel moved for judgment. Counsel argued that enforcement of the loan agreement was barred by Md. Code, Courts & Jud. Proc. § 5-901, which codifies one aspect of Maryland's Statute of Frauds,[4] and that

[3] Ms. Pearson testified as follows: "Well, I had to take a loan out. I took a loan out of my TSP, my retirement, and provided the funds to [Mr. Sharpe] that way."

[4] Courts & Jud. Proc. § 5-901 states in pertinent part:

the elements of unjust enrichment had not been met. The court granted judgment for Mr. Sharpe on both counts.

As to the breach of contract count, the court ruled as follows:

> So first we have -- the parties have stipulated and agreed that on December 12th, 2017, and that is Plaintiff's Exhibit No. 2, from the Plaintiff's Department of Labor Federal Credit Union she issued a check to the Defendant for $36,830. According to the Plaintiff's testimony, that was for a loan and it was an agreement in which the Defendant would pay $1,500 per month until completion of the loan.
>
> With respect to the second, Plaintiff's No. -- let me just make sure I get it, Plaintiff's No. 3, there was -- parties agreed and stipulated that there was a payment to Ricky John Richard for a 2008 white Ford F-250 and the negotiation was for $10,000.
>
> * * *
>
> And the bottom of that, it says, it just says, "Pay to the order of Ricky John Richard," and that was for the purpose of buying the truck. And according to the Plaintiff's testimony, that was for a loan. There was no testimony as to what, if any, were the terms of the loan.
>
> Then with respect to No. -- there was additional items that were purchased that totaled $24,592.74 and that was Plaintiff's Exhibit No. 4 that was stipulated to and there were several items from Home Depot, there was Polar Equipment and other businesses. And according to the Plaintiff's testimony, the purpose of those was to help the Defendant's business, but it was for a loan.
>
> She also testified to, however, on cross examination that you would help with your business and she agreed that she would help with his -- her business and he would help with her business. There was testimony about

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> Unless a contract or agreement upon which an action is brought, or some memorandum or note of it, is in writing and signed by the party to be charged or another person lawfully authorized by that party, an action may not be brought:
>
> * * *
>
> (3) On any agreement that is not to be performed within 1 year from the making of the agreement.

they were in a relationship and then they went to Hawaii.[5] In the first part of the testimony, they went to bring their relationship together and then the second part of the testimony was they were just friends and they traveled as friends.

* * *

The parties had a relationship, a personal relationship. They both had businesses, but they didn't agree that this is in the strict terms of what a business relationship was.

So now we go to whether there was actual contracts and a contract, as you stated and everyone knows, duty, breach, causation, harm.[6]

* * *

Now, the total amount owed according to the Plaintiff is $71,422.74. However, even from the Plaintiff's own words, the first part of that $7,400 or $71,000 was the $1,500 a month that would have to be paid on just the $36,000, half of it. And so the $ 1,500 per month clearly -- $1,500 per month, clearly cannot be completed within one year time because you're looking at $18,000, I believe, for the first year and the loan was for $36,000.

So then the Court goes to Courts & Judicial Proceedings Section 5-901. And 5-901] [sic] as was stated, and we all know, that contracts or agreements upon which is an action is brought or some memorandum or note of it is in writing and signed by the party to be charged or another person lawfully authorized by that party, an action may not be brought on an agreement that is not to be performed with one-year from the making of the agreement.

The Plaintiff's own testimony shows that this loan agreement could not have been performed in one year from her testimony alone and so the Court would grant judgment as to Count I, breach of contract.

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[5] On cross-examination, Ms. Pearson confirmed that she paid for the trip to Hawaii.

[6] The court misstated these elements. Duty, breach, proximate cause, and actual injury are the elements of a negligence action. *See Jones v. State*, 425 Md. 1, 18 (2012). A breach of contract action, however, requires the plaintiff to "prove that the defendant owed the plaintiff a contractual obligation and that the defendant breached that obligation." *Taylor v. NationsBank, N.A.*, 365 Md. 166, 175 (2001).

The court also granted judgment for Mr. Sharpe on the unjust enrichment count:

> There was a loan for $71,000. There was no additional testimony for the Court to consider as to whether there was a benefit incurred to the Defendant without the payment of its value, and this is straight from the Plaintiff's own testimony in which they were both helping each other's business.
>
> And without any evidence to support what benefit aside from that $71,000 was -- plus, was conferred to the Defendant and what the benefit totaled that was conferred to the Plaintiff, even in the light most favorable to the Plaintiff, the Court would have to grant judgment as to unjust enrichment because the elements of unjust enrichment have not been met.

We supply additional facts below as needed.

THE STANDARD OF REVIEW

Under Maryland Rule 2-519(b), "[w]hen a defendant moves for judgment at the close of the evidence offered by the plaintiff in an action tried by the court, the court may proceed, as the trier of fact, to determine the facts and to render judgment against the plaintiff or may decline to render judgment until the close of all the evidence." In such cases, we review the trial court's judgment in accordance with Maryland Rule 8-131(c). *Cattail Assocs., Inc. v. Sass*, 170 Md. App. 474, 486 (2006); *see also Boyd v. Bowen*, 145 Md. App. 635, 650 (2002).

"When an action has been tried without a jury, [we] will review the case on both the law and the evidence." Md. Rule 8-131(c). We "will not set aside the judgment of the trial court on the evidence unless clearly erroneous, and [we] will give due regard to the opportunity of the trial court to judge the credibility of the witnesses." *Id*. "If any competent material evidence exists in support of the trial court's factual findings, those

findings cannot be held to be clearly erroneous." *Schade v. Md. State Bd. of Elections*, 401 Md. 1, 33 (2007). We must also consider the evidence that was produced at trial "in a light most favorable to the prevailing party[.]" *Est. of Zimmerman v. Blatter*, 458 Md. 698, 717 (2018) (cleaned up). "Questions of law, however, require our non-deferential review. When the trial court's decision involves an interpretation and application of Maryland statutory and case law, [this] Court must determine whether the trial court's conclusions are legally correct." *Id.*

ANALYSIS

1. Breach of Contract

The court granted judgment in Mr. Sharpe's favor based on its determination that the loan repayment agreement required Mr. Sharpe to repay the loan to Ms. Pearson in installments of $1,500 per month, and thus the loan would not be repaid within one year. As a result, the court determined that the Statute of Frauds barred the loan repayment agreement because that agreement was not in writing and it was not signed by Mr. Sharpe.

In reaching this result, the court relied on this portion of the Statute of Frauds in Courts & Jud. Proc. § 5-901:

> Unless a contract or agreement upon which an action is brought, or some memorandum or note of it, is in writing and signed by the party to be charged or another person lawfully authorized by that party, an action may not be brought: . . . (3) On any agreement that is not to be performed within 1 year from the making of the agreement.

We do not agree with the court's analysis for two reasons.

First, Maryland law is clear that § 5-901 does not apply "when a contract can be completed within the span of a year by *any* possibility, even if the parties intended for the contract to extend for a longer period of time." *Lacy v. Arvin*, 140 Md. App. 412, 429 n.5 (2001) (emphasis in original). *See also Pitman v. Aran*, 935 F. Supp. 637, 648 (D. Md. 1996) ("Maryland courts have strictly applied the 'one year' provision of the Statute of Frauds, whereby the statute will not apply where the contract can, by any possibility, be fulfilled or completed in the space of a year.") (cleaned up). Because Mr. Sharpe could have paid off Ms. Pearson's loan within one year, § 5-901 does not apply to this case.

Second, the Restatement (Second) of Contracts § 130 provides as follows: "When one party to a contract has completed his [or her] performance, the one-year provision of the Statute [of Frauds] does not prevent enforcement of the promises of other parties." Restatement (Second) of Contracts § 130 (1981). Comment d. to that Restatement section addresses the scenario here: "unlike other provisions of the Statute [of Frauds], the one-year provision does not apply to a contract which is performed on one side at the time it is made, such as a loan of money[.]" *Id*. Ms. Pearson performed her side of the loan agreement: she lent $71,422.74 to Mr. Sharpe.

For these reasons, the one-year provision of the Statute of Frauds does not apply to this case and the court erred in granting judgment on the breach of contract count.

We also note that the $36,830 check that Ms. Pearson had given to Mr. Sharpe was in writing, and that check stated as follows: "TO THE ORDER OF TYRONE SHARPE RE: LOAN FOR 3 YEARS[.]" In opposition to Mr. Sharpe's motion for judgment, Ms. Pearson's counsel argued that the check amounted to a contract because it had been signed

(endorsed) by Mr. Sharpe. But the court's ruling did not address that argument. On remand, if Ms. Pearson argues this point again, the court must make findings in support of its conclusion about whether the signed check for $36,830 amounted to a written contract in and of itself.

2. Unjust Enrichment

> A claim for unjust enrichment has three elements:
>
> 1. A benefit conferred upon the defendant by the plaintiff;
>
> 2. An appreciation or knowledge by the defendant of the benefit; and
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> 3. The acceptance or retention by the defendant of the benefit under such circumstances as to make it inequitable for the defendant to retain the benefit without the payment of its value.

Hill v. Cross Country Settlements, LLC, 402 Md. 281, 295 (2007) (citations omitted).

The court determined that the elements of unjust enrichment were not met in this case for two reasons:

First, the court found that there was no "evidence to support what benefit aside from that [$71,422.74 loan] was conferred to" Mr. Sharpe. The evidence at trial, however, established that the loan was a benefit conferred to Mr. Sharpe. Indeed, Mr. Sharpe's default on that loan was the very basis of Ms. Pearson's unjust enrichment claim. Proof of other benefits were unnecessary to support the claim. At trial, Ms. Pearson testified that Mr. Sharpe had only given her "a total of $200" towards the $71,422.74 loan. The evidence at trial also established that Mr. Sharpe had "an appreciation [and] knowledge" of the loan. Ms. Pearson also testified that although Mr. Sharpe had offered to help Ms. Pearson with her business before the money was exchanged, "[a]fter the money was exchanged, he didn't

help with anything. . . . He didn't do anything concerning [Ms. Pearson's] business at all." Thus, despite the court's ruling, there was ample evidence of "acceptance [and] retention by the defendant of the benefit without the payment of its value." Accordingly, we hold that the court erred in granting judgment for Mr. Sharpe on the unjust enrichment count.[7]

3. Ms. Pearson's Exhibits

Finally, Ms. Pearson asserts that the court erred in refusing to admit two exhibits. We provide the following guidance to the court if these unadmitted exhibits become an issue on remand.

The first unadmitted exhibit (Exhibit #1) contained text messages. Mr. Sharpe objected to that exhibit, arguing that Ms. Pearson had not laid a proper foundation. The court sustained Mr. Sharpe's objection.

The second unadmitted exhibit (Exhibit #6) was a copy of the proposed agreement to forgive Mr. Sharpe's debt if he returned the truck, plow, and the trailer to Ms. Pearson. When Ms. Pearson tried to identify this document at trial, Mr. Sharpe's counsel objected because Ms. Pearson had not provided it in discovery. Ms. Pearson's counsel was unaware of this document until after discovery had been submitted. The court sustained the objection. Ms. Pearson testified about the contents of that proposed agreement and her refusal to sign it. According to Ms. Pearson's testimony, Mr. Sharpe tried to obtain Ms. Pearson's signature on that proposed agreement when he left the truck near Ms. Pearson's

[7] The trial court also commented that there was no evidence about "what the benefit totaled that was conferred to" Ms. Pearson. Ms. Pearson was not required to prove that *she* had received a benefit from her loan to Mr. Sharpe.

home (without giving her the key). On appeal, Ms. Pearson argues that Mr. Sharpe withheld the document containing the proposed agreement during discovery.

These two exhibits can be admitted at trial on remand, if proper foundations are laid for them, and if they are otherwise admissible. Before trial on remand, Ms. Pearson can litigate her claim that Mr. Sharpe committed a discovery violation.

THE JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY IS REVERSED. THIS CASE REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY APPELLEE.