Circuit Court for Howard County
Case No. C-13-CV-22-000990

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2025

September Term, 2023

GEORGE ARTHUR WILLSON, II, ET AL.

v.

TDH FARMS, LLC

Reed,
Friedman,
Raker, Irma, S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Friedman, J.

Filed: September 3, 2025

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to MD. RULE 1-104(a)(2)(B).

This appeal is about who has the right to use a barn that straddles two neighboring properties. Prior to the construction of the barn, these two properties, located in Howard County, were a unified property owned by the parents of one of the appellants, George Arthur Willson II. The parents subdivided this property into two portions—an 8-acre property to the northwest and a 71-acre property to the south. The parents conveyed the 8-acre property to Willson II. Then, with the permission of his parents, Willson II built an approximately 9,000 square foot horse barn, half on the 8-acre property and the other half on the 71-acre property. Willson II later acquired title to the 71-acre property, thereby making him the owner of both properties on which the barn sat. Willson II reconveyed title of the 8-acre property to himself and Appellant Katherine Willson (the Willsons) as tenants by the entireties.

Later, Willson II executed a deed of trust over the 71-acre property as security for a mortgage. Howard Cnty. Land Records, Liber 10844 Folio 001-025.[1] Willson II defaulted on the mortgage, and the 71-acre property went into foreclosure proceedings. In 2016, after the conclusion of those foreclosure proceedings, the 71-acre property was sold to the

[1] Our court, when reviewing a grant of a motion to dismiss, may take judicial notice of facts outside of a complaint. MD. R. 5-201(b) (permitting courts to take judicial notice); *Faya v. Almaraz*, 329 Md. 435, 444 (1993) ("[T]o place a [C]omplaint in context, we may take judicial notice of additional facts that are either matters of common knowledge or capable of certain verification ... by resort to sources whose accuracy is beyond dispute."). More specifically, we take judicial notice of this deed of trust because it was recorded in the land records of Howard County. *Wilkinson v. Bd. of Cnty. Commissioners of St. Mary's Cnty.*, 255 Md. App. 213, 262 n.20 (2022) (taking judicial notice of deed recorded in land records of St. Mary's County), *aff'd sub nom.*, *Bd. of Cnty. Commissioners of St. Mary's Cnty. v. Aiken*, 483 Md. 590 (2023).

appellee, TDH Farms, LLC.[2] Thus, from 2016 until today, the Willsons have owned the 8-acre property and TDH Farms has owned the 71-acre property. The contested barn straddles both properties.

In 2016, TDH Farms began modifying and obstructing access to the part of the barn located on its 71-acre property. In particular, the Willsons allege that TDH Farms built "a wooden wall to block [the Willsons'] access to the [71-acre] side of the barn," and caused "extensive damage[]" to the barn by destroying fixtures and utilities. Six years later, on November 10, 2022, the Willsons filed a Complaint against TDH Farms based on its actions regarding the barn. TDH Farms filed a motion to dismiss. After a hearing, the circuit court issued an opinion and order granting TDH Farms's motion to dismiss the Willsons' Complaint. The Willsons then noted this timely appeal.

DISCUSSION

We review the grant of a motion to dismiss without deference to the circuit court. *Gomez v. Jackson Hewitt, Inc.*, 427 Md. 128, 142 (2012). We "assume the truth of, and view in a light most favorable to the non-moving party," the well-pleaded facts in a complaint and the reasonable inferences that can be drawn from them. *Id.* (citation

[2] The scope of the deed of trust is more nuanced than we explain above. The deed of trust describes the property that is subject to it, and that description appears to include both the 71-acre and 8-acre property. Howard Cnty. Land Records, Liber 10844 Folio 016-17. From our review of the record before us, this description presents interesting questions (such as how Willson II executed the deed of trust without his wife, a co-owner of the 8-acre property), but we need not resolve these issues here. For our purposes, and as both parties agree, the result of the deed of trust and subsequent foreclosure proceeding was that the 71-acre property—and only that property—was conveyed to TDH Farms. That understanding is enough to allow us to address the issues presented by this case.

omitted). The facts "must be pleaded with sufficient specificity; bald assertions and conclusory statements by the pleader will not suffice." *RRC Northeast, LLC v. BAA Maryland, Inc.*, 413 Md. 638, 644 (2010). "[W]hen a pleading is doubtful and ambiguous, it will be construed most strongly against the pleader in determining its sufficiency." *Parker v. Hamilton*, 453 Md. 127, 133 (2017) (citations omitted). We will affirm the grant of a motion to dismiss if the facts and reasonable inferences, "if true, … do not state a cause of action for which relief may be granted." *Gomez*, 427 Md. at 142 (citation omitted).

In their Complaint, the Willsons allege causes of action for trespass to chattels, conversion, trespass to possessory interests, quiet title, ejectment (which the Willsons call "possession of property"), and declaratory judgment.[3] In addition to these causes of action,

[3] On appeal, the Willsons raise three additional theories that they argue preclude dismissal: the duty of common prudence; the theory of malicious construction; and the existence of a quasi-easement. These three theories were not pleaded in the Willsons' Complaint nor argued to the circuit court and are, therefore, waived. MD. R. 8-131(a) (stating issues not raised in or decided by the circuit court are waived); *DiCicco v. Baltimore Cnty.*, 232 Md. App. 218, 224-25 (2017). Even if we were to reach the merits of these theories, however, we would likely reject them:

- The duty of common prudence requires a landowner to "maintain[] [its] property in such a way as to prevent injury to [its] neighbor's property." *Tolu v. Ayodeji*, 945 A.2d 596, 603 n.5 (D.C. 2008) (citation omitted). This theory is used to describe the duty of care landowners owe their neighbors in a negligence action based on premises liability. *E.g.*, *id.*; *Steamfitters Loc. Union No. 602 v. Erie Ins. Exch.*, 241 Md. App. 94, 114 (2019), *aff'd*, 469 Md. 704 (2020). It typically applies to premises liability cases in which a party fails to prevent a dangerous condition on their land from harming other properties, because they either knew or should have known of the condition. *See Steamfitters*, 241 Md. App. at 114. That is irrelevant where, as here, the Willsons allege that TDH farms acted intentionally to modify the barn with full knowledge they were modifying it. The duty of common prudence is simply inapplicable to this case.

the Willsons asserted ownership of the barn based on the so-called innocent mistake doctrine, and requested injunctive relief. Underlying all of these claims was the Willsons' theory of the case that they owned the entire barn and that TDH Farms had violated their property rights by obstructing and modifying the half of the barn on TDH Farms's property. The circuit court dismissed the Willsons' Complaint because it found that each of the

- A claim for malicious construction, in jurisdictions that have adopted it, lies to prevent a defendant constructing an unwanted building on a landowner's property. *Errichetti v. Botoff*, 196 A.3d 1199, 1204 (Conn. App. Ct. 2018) (applying Connecticut statutory law). We have found no case or statute adopting this theory in Maryland. The Willsons have not argued why the theory of malicious construction should be adopted in Maryland or why it would be appropriate in these circumstances, given that Willson himself constructed the barn, if not the internal wall. Given all this, we decline to use this case as a vehicle for adopting the theory of malicious construction into Maryland law.
- Finally, we are skeptical whether a court could recognize a quasi-easement of the scope for which the Willsons argue. An easement is a "nonpossessory interest in the real property of another." *Lindsay v. Annapolis Roads Prop. Owners Ass'n*, 431 Md. 274, 290 (2013) (citation omitted). The Willsons argue for the existence of a particular type of implied easement known as a quasi-easement. *Stansbury v. MDR Dev., L.L.C.*, 161 Md. App. 594, 610-11 (2005), *aff'd*, 390 Md. 476 (2006). A quasi-easement exists when a landowner uses a part of their land for the benefit of another part. *Id.* When those two parts are later separated into two properties, a quasi-easement may be implied based on the prior use of the once unified property. *Id.* at 610-11, 613-14. While the cases support that a quasi-easement may be imposed for an encroachment of a few inches, it is likely to be inappropriate for an encroachment of half of a building. *See Slear v. Jankiewicz*, 189 Md. 18, 25-26 (1947) (citing *Clements v. Sannuti*, 51 A.2d 697 (Pa. 1947)) (distinguishing between the "slight encroachment" as discussed in *Slear* and an encroachment from "half a … building" as discussed in *Clements*). Because this theory was waived, however, we decline to decide this difficult question involving both the legal limits of a quasi-easement and the factual size sought by the Willsons.

Willsons' causes of action were barred by the statute of limitations, failed to state a claim, or both.

Based on the Willsons' assertions, our analysis proceeds in seven parts. We hold, *first*, that the circuit court did not err in finding that the Willsons' causes of action for trespass to chattels and conversion were barred by the applicable statute of limitations. We hold, *second*, that the circuit court did not err in finding that the Willsons' cause of action for trespass to possessory interests failed to state a claim on the merits. We hold, *third*, that the Willsons' cause of action for quiet title fails to state a claim on the merits. We hold, *fourth*, that the Willsons' cause of action for ejectment fails to state a claim on the merits. We hold, *fifth*, that the circuit court did not err in finding that the Willsons did not own the barn based on the innocent mistake doctrine. We hold, *sixth*, that the circuit court properly exercised its discretion in dismissing the Willsons' requests for injunctive relief. We hold, however, *seventh*, that the circuit court erred in finding that the Willsons did not state a claim for declaratory judgment, and we remand this aspect of the case so that the circuit court can declare the rights and obligations of the parties. All told, we affirm every dismissal by the circuit court except for that related to the declaratory judgment.

I. THE WILLSONS' CAUSES OF ACTION FOR TRESPASS TO CHATTELS AND CONVERSION ARE BARRED BY THE STATUTE OF LIMITATIONS

The circuit court found that the Willsons' causes of action for trespass to chattels and conversion were barred by the statute of limitations. We hold that the circuit court did not err in dismissing on limitations grounds.

Often, questions about the applicability of a statute of limitations turn on factual matters and are, therefore, appropriately left for consideration by the jury. *Litz v. Maryland Dep't of Env't*, 434 Md. 623, 641 (2013). Only if it is "clear from the facts and allegations on the face of the complaint" that the statute of limitations bars a cause of action can a trial court grant a motion to dismiss. *Id.*

Here, the Willsons have pleaded, in their Complaint filed in 2022, trespasses to chattels and conversions that they allege occurred in 2016 when TDH Farms "[b]uilt" a wall and fence to obstruct the Willsons from half of the barn, "removed" various fixtures such as gutters and horse stalls, and "[l]eft open … doors" to the barn, exposing the barn to bad weather. Such claims are clearly facially barred by the statute of limitations. MD. CODE, CTS. & JUD. PROC. ("CJ") § 5-101; *Litz*, 434 Md. at 640 (stating limitations period for trespass is three years); *Allied Inv. Corp. v. Jasen*, 354 Md. 547, 553 (1999) (stating limitations period for conversion is three years). That it applies to acts that occurred in 2016, there is no doubt.

Despite that, however, the Willsons argue that their claims should be spared from the statute of limitations under the "continuing violation doctrine" or, at least, that the applicability of the "continuing violation doctrine" is a factual question for the jury rather than a legal question for the court on a motion to dismiss.

The "continuing violation doctrine" holds that "every repetition of the wrong creates further liability and creates a new cause of action, and a new statute of limitations begins to [accrue] after each wrong perpetuated." *Litz*, 434 Md. at 646 (citation omitted). In determining the applicability of the "continuing violation doctrine," courts must carefully

distinguish between allegations of "continuing ill effects" from the original violation and a "series of acts or course of conduct" that would renew the statute of limitations. *Cain v. Midland Funding, LLC*, 475 Md. 4, 50-51 (2021) (emphasis omitted) (citation omitted).

Here, the continued deterioration of the barn alleged in the Willsons' Complaint described only "continuing ill effects" caused by TDH Farms's 2016 incursions and removal of fixtures, not new incursions that might renew the statute of limitations. As a result, we hold that the Willsons' Complaint did not plead a "continuing violation" as a matter of law. This question was, therefore, not a factual question for the jury to decide. As such, the circuit court did not err in finding that the Willsons' trespass to chattels and conversion claims are barred, as a matter of law, by the statute of limitations.

II. THE WILLSONS FAIL TO STATE A CLAIM TO TRESPASS TO POSSESSORY INTERESTS

The circuit court found that the Willsons' cause of action for trespass to possessory interests was both barred by the statute of limitations and failed to state a claim on which relief can be granted. The Willsons, on the other hand, again argue that the "continuing violation doctrine" applies to toll the statute of limitations and that they have properly pleaded that TDH Farms has trespassed on their property. Because we agree with the circuit court that the Willsons' cause of action for trespass to possessory interests fails to state a claim on which relief can be granted, there is no need for us to decide whether it is barred by the statute of limitations.[4]

[4] If we had reached the issue of whether the Willsons' cause of action for trespass to possessory interests is barred by the statute of limitations, we would likely have

We review the Willsons' cause of action for trespass to possessory interests through the lens of the one and only harm pleaded in the Complaint that is not barred by the statute of limitations: that TDH Farms has repeatedly entered the barn since 2016. *See supra* note 4. Below, we describe the elements necessary to state a claim for trespass to possessory interests and explain why the Willsons fail to state a claim on this action.

Trespass to possessory interests is a harm against the real or personal property of another. *Baltimore Gas & Elec. Co. v. Flippo*, 112 Md. App. 75, 85 (1996), *aff'd*, 348 Md. 680 (1998). To state a claim for trespass to possessory interests, the plaintiff must plead: "(1) an interference with a possessory interest in [their] property; (2) through the defendant's physical act or force against that property; (3) which was executed without [their] consent." *Royal Inv. Grp., LLC v. Wang*, 183 Md. App. 406, 445 (2008). Thus, trespass to possessory interests requires an unconsented interference with the plaintiff's property.

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determined that the continuing violation doctrine would have applied to toll the statute of limitations. As discussed in the previous section, under the continuing violation doctrine, a cause of action may accrue after the initial violation is discovered and thus fall within the statute of limitations if a complaint sufficiently pleads repeated violations of conduct rather than the ongoing effects of an original violation. *Cain*, 475 Md. at 50-51. The Willsons pleaded in their Complaint that they "have made repeated demands upon [TDH Farms] to … vacate its property from the barn. [TDH Farms] refuses … to refrain from entering the barn." In other words, the Willsons have pleaded that TDH Farms has not only trespassed into the barn in 2016, but that it has trespassed into the barn repeatedly and has refused to stop doing so. Unlike the damage to the barn which, we held above, involved the ongoing effects of an original violation, TDH Farms's allegedly repeated trespasses into the barn could be the type of recurring conduct to which the continuing violation doctrine applies to toll the statute of limitations. *Cain*, 475 Md. at 50-51.

The Willsons argue that they have pleaded the elements to state a claim for trespass to possessory interests. The circuit court found that the Willsons failed to plead this cause of action because the Willsons don't own (and didn't plead that they owned) the part of the barn on which TDH Farms had allegedly trespassed. We agree with the circuit court. Specifically, we note that the Willsons have failed to properly plead the first element—interference with a possessory interest. *First*, the Complaint did not state that TDH Farms trespassed onto the half of the barn that sits on the Willsons' property. Indeed, the Complaint indicates the opposite—that the wall that TDH Farms built blocked the Willsons from accessing TDH Farms's side of the barn and vice versa, thus keeping TDH Farms on the part of the barn that is located on its property. *Second*, the Willsons concede in the Complaint that the 71-acre property was conveyed to TDH Farms and that the conveyance was recorded in the land records. The Willsons do not contest the validity of the conveyance. Thus, they have not only failed to plead that they have a possessory interest in the part of the barn that sits on TDH Farms's property, but they have specifically acknowledged that they don't.

Because the Willsons have failed to plead facts establishing the first element, they have failed to state a claim for trespass to possessory interests. As a result, the circuit court did not err in dismissing the Willsons' cause of action for trespass to possessory interests.

III. THE WILLSONS FAIL TO STATE A CLAIM TO QUIET TITLE

The circuit court found that the Willsons' cause of action for quiet title failed to state a claim on the merits and was barred by the statute of limitations. We agree. Because

we hold that the Willsons have failed to state a claim for relief on the merits, we need not address the statute of limitations.

Quiet title actions are intended to "protect owners of legal title from being disturbed in the possession of their property." *Bay City Prop. Owners Ass'n, Inc. v. Cnty. Commissioners of Queen Anne's Cnty.*, 263 Md. App. 385, 411 (2024). To state a claim to quiet title, a plaintiff must plead that they have (1) legal title to and (2) actual possession of the property in dispute. *Id.*; MD. CODE, REAL PROPERTY ("RP") § 14-108. Moreover, to establish legal title to the disputed property, a plaintiff must plead some basis to the title such as, for example, adverse possession. RP § 14-606(2).

Although the Willsons pleaded that "they possess and are the sole rightful and lawful owners of the barn, and appurtenant utilities and fixtures to the barn," the allegations in the Complaint contradict both their basis to title and their actual possession of the barn.

First, the allegations in the Complaint contradict the Willsons' basis to title. The Willsons pleaded that the 71-acre property on which half of the barn sits was "conveyed … to … TDH Farms." The Willsons do not dispute that TDH Farms has title to that property, and they do not plead any other basis on which they have legal title to the part of the barn that is on TDH Farms's 71-acre property. Accordingly, the Willsons failed to allege any basis to title over the half of the barn on TDH Farms's property.[5]

[5] We acknowledge that after the Willsons' mortgaged the 71-acre property under the deed of trust, later recorded assignments of the deed of trust between trustees and various financial institutions *did* reserve rights in improvements on the land, including possibly the barn. For example, two financial institutions executed an assignment of the deed of trust several years after the Willsons' initial conveyance that included an attached

Second, the facts in the Complaint contradict the Willsons' assertion that they have actual possession of the half of the barn on TDH Farms's property. The Complaint states that "after [TDH Farms] purchased the … [71-acre] [p]roperty …. [TDH Farms] entered [the Willsons'] barn and erected a wooden wall to block [the Willsons'] access to the [71-acre] side of the barn." Thus, TDH Farms allegedly prevented the Willsons from even entering, much less having actual possession of, its half of the barn.

Without either a basis to title or actual possession of the property, the Willsons' Complaint fails to state a claim to quiet title. As a result, the circuit court did not err in dismissing this cause of action.

IV. THE WILLSONS FAIL TO STATE A CLAIM FOR EJECTMENT

The circuit court found that the Willsons' cause of action for ejectment was barred by the statute of limitations. Below and on appeal, the Willsons argue that this cause of action is not barred by the statute of limitations and that they have stated a claim for ejectment. We hold that the Willsons have failed to state a claim for ejectment, and so we need not address the limitations issue. *Gomez*, 427 Md. at 142 ("The grant of a motion to dismiss may be affirmed on 'any ground adequately shown by the record, whether or not relied upon by the [circuit] court.'" (citation omitted)).

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legal description noting that the assignment was for "LAND ONLY. NO IMPROVEMENTS." Howard Cnty. Land Records, Liber 13393 Folio 0056, 060. This legal description does not, however, establish that the Willsons have title because the deed that conveyed title following the foreclosure sale included its own legal description stating that "[t]his legal description supersedes all prior legal descriptions contained in the [d]eed of [t]rust and any assignments thereto." Thus, the prior deeds that purportedly reserved rights in the improvements on the 71-acre property are void.

Ejectment is an action for those who are "not in possession of [the] property" that is the subject of the dispute. *Porter v. Schaffer*, 126 Md. App. 237, 273 (1999) (citation omitted). To establish a claim for ejectment, a plaintiff must allege (1) a claim to title and (2) the right to possess the property in dispute. *MKOS Props. LLC v. Johnson*, 264 Md. App. 465, 485 (2025); RP § 14-108.1.[6]

The Willsons fail to state a claim to ejectment because, under the second element, they do not have a right to possession of the half of the barn on TDH Farms's property as a matter of law. Maryland's highest court has long held that "ratification of [a] foreclosure sale divests the mortgagor of the right of possession" and "with it the right to maintain ejectment." *Laney v. State*, 379 Md. 522, 540 (2004) (citation omitted). To assert their cause of action to ejectment, the Willsons pleaded that they "are entitled to immediate possession of the entire barn." The Complaint also states, however, that the Willsons defaulted on the mortgage attached to the 71-acre property on which the barn sits and, following a foreclosure sale, the 71-acre property was purchased by TDH Farms. The foreclosure sale thus divested the Willsons of the right of possession of the half of the barn

[6] The Willsons' causes of action to quiet title and ejectment are, by definition, mutually exclusive. While a cause of action to quiet title requires the plaintiff to possess the property in dispute, ejection requires the plaintiff to lack possession. *Bay City*, 263 Md. App. at 411 (requiring actual possession to assert quiet title); *Porter*, 126 Md. App. at 273 (stating ejectment is asserted by those not in possession of the disputed property). This inconsistency does not affect whether the Willsons can state a claim to either cause of action, however, because the Maryland rules permit pleading in the alternative. MD. R. 2-303(c) ("When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements.").

on TDH Farms's property and, with it, the right to maintain their ejectment action. *See Laney*, 379 Md. at 540. Thus, the Willsons have failed to state a cause of action for ejectment because the allegations in the Complaint establish that they have forfeited their right to possession as a matter of law.

V. THE WILLSONS CANNOT ASSERT OWNERSHIP OF THE BARN BASED ON THE INNOCENT MISTAKE DOCTRINE

The Willsons next argue that the circuit court erred in dismissing their claim to the half of the barn that sits on TDH Farms's land based on what they call the "innocent mistake doctrine." We disagree.

To begin, the "innocent mistake doctrine" to which the Willsons refer is actually just an element of a larger doctrine known as the "doctrine of comparative hardship." *City of Bowie v. Mie Properties, Inc.*, 398 Md. 657, 688 (2007) ("[T]he equitable doctrine of comparative hardship … is appropriate only when the violation is committed innocently or mistakenly."). Our courts describe the doctrine of comparative hardship as follows:

> [W]here a landowner, by innocent mistake, erects a building which encroaches on adjoining land, and an injunction is sought by the owner of the land encroached upon, the court will balance the benefit of an injunction to the complainant against the inconvenience and damage to the defendant, and where the occupation does no damage to the complainant except the mere occupancy of a comparatively insignificant part of his lot, or the building does not interfere with the value or use of the rest of his lot, the court may decline to order the removal of the building and leave the adjoining landowner to his remedy at law.

Urban Site Venture II Ltd. P'ship v. Levering Assocs. Ltd. P'ship, 340 Md. 223, 230-31 (1995) (quoting *Easter v. Dundalk Holding Co.*, 199 Md. 303, 305 (1952)). Thus, under

the doctrine of comparative hardship, a defendant may prevent their encroaching property from being removed by an injunction (and instead only pay damages) if (1) the encroachment was an innocent mistake; and (2) the inconvenience of removing the defendant's encroaching property outweighs the benefit that the complainant would receive from removal. *Id.*

The Willsons did not build the barn on the two properties by innocent mistake. An encroachment is not an innocent mistake if the party that built the encroachment knew it would infringe on another's property rights but encroached anyway. *Id.* at 233 ("Urban Site knew the garage would encroach before they began construction and, therefore, the encroachment was not innocent."). Here, the Complaint alleges that Willson II "obtained all necessary Howard County permits and approvals to construct the barn" and built the barn over the two properties "with the consent of" his parents, who owned the 71-acre property at the time. Taken as true, these facts establish that Willson II intentionally—not mistakenly—built the barn straddling the two properties knowing that the barn would intrude on the property that his parents owned. Thus, because Willson II built the barn with the knowledge and intent that the building would encroach on both properties, the encroachment was not an innocent mistake. As a result, the doctrine of comparative hardship does not apply here as a matter of law. The circuit court did not err in finding that the Willsons failed to state a claim based on the doctrine of comparative hardship.

VI. THE CIRCUIT COURT PROPERLY EXERCISED ITS DISCRETION IN DENYING INJUNCTIVE RELIEF

The Willsons argue that the circuit court abused its discretion in dismissing their requests for injunctive relief that were premised on their causes of action for trespass to chattels, conversion, trespass to possessory interests, quiet title, and ejectment. In particular, the Willsons pleaded for a temporary restraining order and preliminary injunctive relief "restraining and enjoining [TDH Farms] from preventing [the Willsons] from accessing the barn and immediately adjacent property to the barn." We hold that the circuit court properly exercised its discretion in denying the Willsons' requests for injunctive relief.

Contrary to the Willsons' Complaint and other papers, an injunction is not a cause of action—it is an equitable remedy. *Ademiluyi v. Egbuonu*, 466 Md. 80, 123 (2019). As such, a court will only grant injunctive relief that is pleaded in a complaint if the causes of action on which the injunctive relief is based are properly pleaded. *Injunctions, Mandamus, and Declaratory Judgments*, *in* PLEADING CAUSES OF ACTION IN MARYLAND § 7.3 (2022) ("Frequently, requests for injunctive relief relate to independent causes of action …. [C]ounsel must take care to plead properly and fully the elements of a cause of action which support the request for injunctive relief."). To establish their right to a temporary restraining order or preliminary injunction, the plaintiff must plead and prove four factors: (1) the likelihood of success on the merits; (2) the balance of convenience; (3) the public interest; and (4) irreparable injury to the plaintiff. MD. R. 15-504(a); *Ademiluyi*, 466 Md.

at 114. "[F]ailure to prove the existence of even one of the four factors will preclude the grant of … injuncti[ve] relief." *Id.* at 115 (citation omitted).

We need not discuss each factor at length in this case because it is clear that the Willsons cannot establish a likelihood of success on the merits of any of the claims. Under this first element, which is reviewed without deference to the circuit court, the movant must prove a "real probability of prevailing on the merits, not merely a remote possibility of doing so." *Ademiluyi*, 466 Md. at 115. Here, the Willsons' request for injunctive relief is premised on their five property-based causes of action and the allegation that they own the whole barn. As we have discussed above, however, these causes of action are either time-barred or fail to state a claim on the merits, and the Willsons lack any basis from which they could assert ownership of the half of the barn on TDH Farms's property. *See supra* Sections I-V. Thus, the Willsons have no possibility of success—much less a likelihood of success—on the merits. Accordingly, the circuit court did not err in finding the Willsons could not establish a likelihood of success on the merits. As a result, the circuit court properly exercised its discretion in denying their requests for a temporary restraining order and preliminary injunctive relief.

VII. THE WILLSONS HAVE STATED A CLAIM FOR DECLARATORY JUDGMENT

The Willsons' Complaint includes a claim for declaratory judgment that was dismissed by the circuit court. A declaratory judgment is a written "judicial declaration as to the existence and nature of a relationship between [the plaintiff] and the defendant." *Aleti v. Metro. Baltimore, LLC*, 251 Md. App. 482, 519-20 (2021) (citation omitted), *aff'd*, 479 Md. 696 (2022); CJ § 3-406 (describing right to obtain declaration of rights regarding

deed or contract). In the Complaint, the Willsons made the following requests for declaratory relief:

> This Court adjudicate the rights and liabilities of the Parties with respect to [the Willsons'] right to access the barn and immediately surrounding property surrounding the barn.
>
> This Court find and declare that the [the Willsons] have unrestricted access [to the barn] and the immediately surrounding property serving the barn.
>
> This Court award [the Willsons] the costs of these proceedings.
>
> This Court award [the Willsons] such other and further relief that the [C]ourt deems just and appropriate.

TDH Farms raises two arguments against the Willsons' declaratory judgment action. *First*, it argues that the action is barred by the statute of limitations. *Second*, it claims that the circuit court did not err in dismissing the Willsons' declaratory judgment action because the circuit court found it did not have the authority to enter the order that the Willsons requested. We address these arguments in turn.

A. The Statute of Limitations Does Not Bar the Willsons' Declaratory Judgment Action

The Willsons' cause of action for declaratory judgment is not time-barred. Whether declaratory relief is time-barred depends on the type of relief requested. *Murray v. Midland Funding, LLC*, 233 Md. App. 254, 261-63 (2017). "A simple declaration" of the rights of the parties has "no time bar at all." *Id.* at 261 (holding declaration that a judgment is void is never time barred). On the other hand, if a declaratory judgment action seeks "ancillary remedies" other than a simple declaration, those remedies may be subject to either limitations or laches depending on whether the relief sought is legal or equitable. *Id.* at 262.

As quoted above, the Willsons' Complaint made four requests for declaratory relief: (1) resolving rights and liabilities as to access to the barn; (2) unrestricted access to the barn; (3) costs; and (4) further miscellaneous relief. As to requests 1, 2, and 4, to the extent that they merely request a resolution as to the rights of each party, they are simple declarations that are not time-barred. Request 3 is also not time-barred because "[i]n *any* proceeding under [the Declaratory Judgment Act] the court may make such award of costs as may seem equitable and just." CJ § 3-410 (emphasis added). Thus, the Willsons' requests for declaratory relief are not time-barred.

B. The Willsons' Declaratory Judgment Action States a Claim on the Merits

The Willsons argue the circuit court erred in dismissing its claim for declaratory judgment on the merits. A circuit court may only dismiss a declaratory judgment action under limited circumstances, such as when there is no justiciable controversy between the parties. *Aleti*, 251 Md. App. at 520. A justiciable controversy is one in which "there are interested parties asserting adverse claims upon a state of facts … wherein a legal decision is sought or demanded." *Id.* (citation omitted). When a "controversy is appropriate for resolution by declaratory judgment, the court *must* enter a declaratory judgment and that judgment … must be in writing." *Id.* at 519 (citation omitted) (emphasis added). A controversy is appropriate for resolution by declaratory judgment "even though the plaintiff may be on the losing side of the dispute[.] [I]f [the plaintiff] states the existence of a controversy which should be settled, [they] state[] a cause of suit for a declaratory decree." *Allied Inv. Corp. v. Jasen*, 354 Md. 547, 556 (1999) (citation omitted); *see also Glover v.*

Glendening, 376 Md. 142, 155 (2003) (citation omitted) ("Legions of our cases hold that a … motion to dismiss … is rarely appropriate in a declaratory judgment action.").

The circuit court dismissed the Willsons' declaratory judgment action because it found that it could not declare that the Willsons have unrestricted access to the barn and immediately surrounding property. This dismissal was in error. Even if, as here, the circuit court found that the plaintiffs were not successful in their arguments, the circuit court had the authority and was required to enter a written order declaring the rights of the parties because there is a justiciable controversy. *See, e.g.*, *Aleti*, 251 Md. App. at 519 (holding "that even if the [circuit] court were correct that its rulings … settled the entire dispute between the parties, it still was required to enter a declaratory judgment" "declaring the rights and obligations of the parties"). In their Complaint, the Willsons pleaded an actual controversy between the parties over the rights to the barn that may be resolved by a declaratory judgment. Thus, because the circuit court was required to declare the rights and liabilities of the parties regardless of whether the Willsons would be victorious, it erred in dismissing the Willsons' declaratory judgment action. As such, we reverse the circuit court's dismissal of this action and remand for further proceedings.

The Willsons' declaratory judgment action is not time-barred and the circuit court erred in finding that it could not grant a declaration. On remand, the circuit court must file a written declaration, consistent with this Opinion, declaring the rights of the parties regarding their access to the barn and property surrounding the barn. Although this declaration certainly cannot give the property to the Willsons, it may include a determination of whether the Willsons will have access to utility services tied to the barn,

whether the parties will share costs in maintaining the barn, and any other rights the circuit court deems appropriate.

CONCLUSION

The Willsons' claims for trespass to chattels and conversion are barred by the three-year statute of limitations. Their actions for trespass to possessory interests, quiet title, and ejectment fail to state a claim. The Willsons do not own the barn based on the innocent mistake doctrine. The circuit court properly exercised its discretion in denying injunctive relief. The Willsons' declaratory judgment action states a claim, and on remand, the circuit court must declare the rights and obligations of the parties in a written judgment consistent with this Opinion.

JUDGMENT OF THE CIRCUIT COURT FOR HOWARD COUNTY IS AFFIRMED IN PART, REVERSED IN PART, AND REMANDED. COSTS TO BE PAID BY APPELLANT.