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DISTRICT III

December 20, 2022

To:

Hon. Timothy A. Hinkfuss
Circuit Court Judge
Electronic Notice

David D. Daul
Electronic Notice

John VanderLeest
Clerk of Circuit Court
Brown County Courthouse
Electronic Notice

T. Wickham Schmidt
Electronic Notice

You are hereby notified that the Court has entered the following opinion and order:

2021AP1012

Tina L. Washuleski v. Therese A. Melotte
(L. C. No. 2020SC4380)

Before Hruz, J.¹

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Therese Melotte appeals a judgment in a replevin action that awarded Tina Washuleski ownership of a trailer home and granted Melotte a \$1,099 equitable lien against that trailer. On appeal, Melotte does not contest Washuleski's ownership of the trailer. Rather, Melotte argues that the value of the equitable lien granted to her had no reasonable basis in the record and, therefore, was an erroneous exercise of the circuit court's discretion. We disagree. Based upon

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2) (2019-20). All references to the Wisconsin Statutes are to the 2019-20 version unless otherwise noted.

our review of the briefs and record, we conclude that this case is appropriate for summary disposition, and we summarily affirm the judgment. *See* WIS. STAT. RULE 809.21.

Melotte lived in the trailer at issue for five years and resided there at the time of this replevin action. During those years, Melotte lived there with her daughter, her since-deceased mother Lynn England, and, briefly, her father Russell England. The original title to the trailer listed both Russell and Lynn as owners. Russell stopped residing in the trailer when he became incarcerated.

The mobile home park where the trailer was located charged monthly lot rent for trailer owners to reside in their trailers there. If an owner failed to pay rent, the park could require removal of the trailer or allow the owner to abandon the trailer to the park. During her residency in the trailer in the mobile home park, Melotte signed a lot-rental lease along with Lynn.

Lynn died in July 2020. In her will, she bequeathed all of her possessions, including the trailer, to Melotte. Lynn, however, was still legally married to Russell when she died. Prior to Russell's marriage to Lynn, he was married to Washuleski. Washuleski eventually brought this replevin action in November 2020, after she purchased the trailer from Russell for \$100.

In February and April 2021, the circuit court held a two-day evidentiary hearing at which both Melotte and Washuleski testified. Washuleski introduced evidence of her ownership of the trailer, including a receipt of sale, a 2011 document from the City of Green Bay concerning the trailer's value and a parking permit fee listing both Russell and Lynn as owners, and a title for the trailer from the State of Wisconsin dated October 29, 2020. Based on the foregoing documents (particularly the title certificate), the circuit court found Washuleski to be the lawful owner of the trailer.

At the hearing, Melotte testified that she paid all the bills associated with the trailer while residing in it. She further testified that she paid all of the lot rent while living in the trailer, and she continued to do so after Lynn died.

Over the course of her residency, Melotte paid for multiple repairs and improvements to the trailer. In particular, Melotte testified that she paid \$948 for subflooring and \$100 to fix electrical wires. She also paid \$600 to lift and level the trailer as well as an additional \$1,500 to repair water damage in the floor of the trailer's bathroom, fix a leak in the trailer's water heater, and partially remodel the bathroom. If she was not found to be the owner of the trailer, Melotte asked that the circuit court grant her an equitable lien against the trailer for the repair and improvement costs, and for half of the lot rent she paid over time.

At the end of the hearing, the circuit court awarded the trailer to Washuleski and granted Melotte an equitable lien against it for some of the expenses she had incurred related to the trailer. The court declined to award any money for Melotte's rental payments, explaining that because Melotte had "lived [in the trailer] and ... benefited from [living] there, ... [and] had a place to call home," she should not receive money for the payments that she made for the trailer rent. Regarding the \$600 cost incurred for lifting and leveling the trailer, the court found this expense to be "a fee Ms. Melotte had for living there." The court also found that the costs Melotte incurred for the remaining repairs paid for by Melotte represented both improvements toward the value of the trailer and Melotte's cost of living there.

Based on the foregoing, the circuit court proposed an equitable lien against the trailer to Melotte in the amount of \$1,274. This amount accounted for Melotte's \$100 payment to fix the electrical wires, her \$948 payment to repair the subfloor, and the \$1,500 for repairs to the

bathroom and water heater. The court then divided the total amount of these costs (\$2,548) in half to exclude the value to Melotte of living in the trailer.

After the hearing, Washuleski requested that the circuit court lower the proposed amount of the equitable lien to account for her court costs and fees. In its final judgment, the court restated that Washuleski was the lawful owner of the trailer and ordered Melotte to vacate the trailer. The court granted Melotte a \$1,099 equitable lien on the trailer and on any proceeds from its sale. We infer that the court took into account Washuleski's request to deduct court costs and fees from the equitable lien when it reduced the amount of the equitable lien from \$1,274 to \$1,099.

The only issue in this appeal is whether the circuit court committed reversible error in setting the amount of the equitable lien. Wisconsin recognizes the appropriateness of equitable liens. *O'Connell v. O'Connell*, 2005 WI App 51, ¶13, 279 Wis. 2d 406, 694 N.W.2d 429. "The circuit court's decision to grant equitable remedies is reviewed for an erroneous exercise of discretion." *Nationstar Mortg. LLC v. Stafholt*, 2018 WI 21, ¶23, 380 Wis. 2d 284, 908 N.W.2d 784. "A discretionary determination will be upheld as long as the court 'examined the relevant facts, applied a proper standard of law, and, using a demonstrated rational process, reached a conclusion that a reasonable judge could reach.'" *Pulkkila v. Pulkkila*, 2020 WI 34, ¶19, 391 Wis. 2d 107, 941 N.W.2d 239 (citation omitted). When making decisions based on equity, Wisconsin courts have "broad flexibility to 'adapt[] their decrees to the actual condition of the parties ... so as to meet the very form and pressure of each particular case.'" *Stafholt*, 380 Wis. 2d 284, ¶30 (citation omitted). "[T]he purpose of an equitable lien is to prevent unjust enrichment." *Kepler v. Koch*, 372 B.R. 459, 463 (Bankr. W.D. Wis. 2007).

While Melotte concedes that the circuit court’s rationale for declining to award rental payments in the equitable lien was logical, she challenges the court’s decision to divide in half the total amount of repairs and improvements to arrive at the lien amount. Melotte summarily argues that the court’s reduction of the total amount of repairs and improvements was “purely arbitrary,” had “no reasonable basis in the record,” and that it “double-charge[d] Melotte for living in the [t]railer.” (Formatting altered.) Accordingly, Melotte argues that the reduction constituted an erroneous exercise of discretion.

We disagree. The circuit court specifically stated that these repair and improvement costs represented two different purposes: “[h]alf represents the cost of living there by ... [Melotte]. And half represents the ... value of the mobile home.” In other words, the court determined that these repairs and improvements both increased the value of the trailer and went to its upkeep, including the necessary upkeep while Melotte was living there. The court awarded the equitable lien for the benefit that it found inured to Washuleski as a result of the repairs—namely, an increased value of the trailer. The court awarded the lien while acknowledging that half of the benefit from the repairs went to Melotte to maintain her residency. There is support for this finding in the record. It is not a finding that is “against the great weight and clear preponderance of the evidence,” and, therefore, it is not clearly erroneous. *See Phelps v. Physicians Ins. Co. of Wis.*, 2009 WI 74, ¶39, 319 Wis. 2d 1, 768 N.W.2d 615.

Melotte fails to understand that the circuit court was not required to grant any equitable lien in this instance, and it was well within the court’s “broad discretion” when fashioning an equitable remedy, *see Stafsholt*, 380 Wis. 2d 284, ¶30, to award a sum less than what Melotte believes to be proper. Here, the court believed it equitable to grant Melotte some money for

certain costs she incurred, but not for all of them, given that she lived in the trailer while the costs were incurred.

Melotte also challenges the total exclusion from the equitable lien of the \$600 cost of lifting and leveling the trailer. Melotte argues the circuit court heard no testimony supporting a finding that Melotte incurred this cost for living in the trailer. Nevertheless, Melotte fails to show how this expense inherently benefitted Washuleski or improved the value of the trailer. Under these circumstances, we cannot conclude that the court erroneously exercised its discretion by deciding not to include the \$600 in the equitable lien. *See Pulkkila*, 391 Wis. 2d 107, ¶19.

Lastly, Melotte asserts that the amount of the equitable lien should have been \$1,099.50, not \$1,099. She argues the lack of the fifty cents in the final judgment “presumably reflects a clerical error,” inasmuch as the circuit court impliedly reduced the amount to account for Washuleski’s taxation of costs of \$174.50. Melotte presents no evidence that the omission of the fifty cents was, in fact, a clerical error, as opposed to the court’s own decision to round the amount at issue. Under these circumstances, we decline to modify the judgment amount, and we affirm the court’s decision to award the amount it saw fit for the equitable lien.

Therefore,

IT IS ORDERED that the judgment is summarily affirmed. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals