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Cook County Recorder of Deeds
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THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

YONG KIM AND HAE K. KIM, Plaintiffs, v. ASHOKKUMAR PUNJABI and BINABEN PUNJABI Defendants.	No. 06 Ch 16970 Rita M. Novak Judge Presiding
ASHOKKUMAR PUNJABI and BINABEN PUNJABI, Counter-plaintiffs, v. YONG KIM AND HAE K. KIM, Counter-Defendants.	

MEMORANDUM OPINION AND JUDGMENT

This matter comes before the Court for decision following trial. Plaintiffs are Yong and Hae K. Kim. Defendants are Ashokkumar ("Eddie") and Binaben Punjabi. Mr. Kim and Mr. Punjabi are both experienced businessmen, each owning his own business. Mrs. Kim and Mrs. Punjabi were not central participants in the transactions at issue. Mr. Kim employed Steve Ahn as a manager of Bee Sales, his import business. Mr. Ahn was actively involved on behalf of Mr. Kim. The transaction at issue concerns a contract by which Plaintiffs were to sell to Defendants a brick factory building located at 4710 West Montrose, in Chicago.

In brief summary, Plaintiffs contend that they entered into a contract with Defendants to sell the Montrose property for $1,975,000. The price included the

$1,500,000 specified in a written contract and $475,000 in cash. Defendants also paid $50,000 in earnest money, offset against the $1,500,000. Plaintiffs characterize the $475,000 cash as additional earnest money. The parties signed the written contract on October 10, 2005, and Defendants turned over $475,000 in cash to Plaintiffs in installments made over several weeks. According to Plaintiffs, the parties mutually agreed to terminate the contract due to various factors, including Defendants' concern about possible environmental clean-up costs. On December 30, 2005, Plaintiffs returned $475,000 in cash to Defendants. They considered the deal terminated, and no meetings of the minds occurred despite subsequent negotiations taking place. In March 2006, Defendants recorded the October 10, 2005 contract with the Cook County Recorder of Deeds. Plaintiffs claim that the recording was improper.

In contrast, Defendants claim that the sale price of the property was set at $1,500,000, with $50,000 to be paid as earnest money. In addition, there was a side agreement by which Defendants agreed to pay an extra $475,000 in cash if the property was turned over in an environmentally sound condition. When environmental concerns were raised shortly after the contract was signed, Defendants maintain, the agreement was modified. By that modification, Defendants agreed to purchase the property in an "as is" condition and Plaintiffs would allow Defendants to conduct an environmental study. According to Defendants, in January 2006, Defendant Eddie Punjabi and Steven Ahn, Mr. Kim's agent, agreed that Defendants would buy the property at $1,500,000 in an "as is" condition, thus preserving the terms of the written contract as modified. Mr. Punjabi purchased a cashier's check in the amount of $1,380,000 and prepared a check in the amount of $11,250 made payable to his attorney Fred Sherman. These amounts, when

added to the $50,000 paid in earnest money, would constitute the $1,500,000 purchase price.[1] Because a valid and binding contract for the sale of property existed, Plaintiffs' failure to perform constitutes a breach of contract.

At trial, the Court heard evidence on the following claims: 1) a suit to quiet title and for slander of title brought by Plaintiffs, Yong and Hae K. Kim; and 2) alternatively, Plaintiffs claim for declaratory judgment. For the Defendants, the Court heard evidence related to their counterclaims for breach of contract and specific performance and Plaintiff's affirmative defense, namely that any "side agreement" is unenforceable. For the reasons set out below, the Court finds in favor of Plaintiffs and against Defendants on all claims and counterclaims except slander of title.

STATEMENT OF FACTS

A number of the material facts are not disputed. They are set out in this section. Any factual disputes will be resolved in the next section.

Plaintiffs hold title to the property commonly known as 4710 W. Montrose, in Chicago. Plaintiffs and Defendants signed a written contract for the sale of the property on October 10, 2005. The contract listed the sale price as Defendants also paid another $50,000 in earnest money. The $50,000 was deposited with Jay Hwan Chie, Plaintiffs' attorney, and remains in Mr. Chie's trust account today.

Defendants paid Plaintiffs $475,000 in four cash payments. The sum was fully paid on November 15, 2005. Neither the Kims nor the Punjabis told their respective attorneys about the cash payment before the $475,000 was returned. Mr. Punjabi returned $475,000 to the Kims on December 30, 2005.

The signed contract contained a rider. Rider number R-6 pertained to

[1] These figures add up to $1,441,250, not $1,500,000.

environmental contamination. It required the sellers to "be responsible for removal of such contamination at their expense; or, at their option, to terminate the contract and refund Purchaser's earnest money." (Pl. Ex. 1, R-6(b)).

Shortly after the parties signed the contract, on October 18, 2005, Mr. Chie sent a letter to Defendants' attorney, Fred R. Sherman. Mr. Chie advised that he disapproved of the contract unless Defendants agreed to certain specified modifications.[2] One of the modifications was to delete the entire paragraph of R-6 and insert, "Seller shall provide currently existing EPA Reports and Letters, if any." (Pl. Ex. 5). Another stated, "Purchaser further acknowledges and agrees that Purchaser is acquiring the project on an AS IS, WHERE IS and WITH ALL FAULTS basis . . . . The purchase price is a discounted purchase price representing the fact that the project in [*sic*] being purchased by Purchaser on an AS IS, WHERE IS AND WITH ALL FAULTS basis." (*Id.*).

On October 20, 2005, Mr. Sherman wrote to Mr. Chie with his own contract modifications. One of the items dealt with environmental matters, making provision in the event the cost of curing any environmental issue exceeded $100,000. In that event, Mr. Sherman proposed that then "the Seller shall have the option to terminate subject to Purchaser's right to pay the difference." (Pl. Ex. 6). On October 27, 2005, Mr. Chie wrote to Mr. Sherman, stating that the parties agreed to the modifications in Mr. Chie's October 18, 2005 letter, except one item that is not at issue in this case. Mr. Sherman signed the letter on a signature line headed with the phrase, "accepted and agreed." (Pl. Ex. 7).

During November and December, Defendants expressed concern about environmental issues. For example, on November 8, and again on November 14, 2005,

[2] Mr. Chie's letter purports to be exercising rights under an attorney approval provision. In fact, the signed contract did not contain such a provision. Nonetheless, there is no real dispute that both parties' attorneys assumed that the contract was subject to attorney approval and acted accordingly.

Mr. Sherman wrote to Mr. Chie detailing information obtained from the environmental inspector that Plaintiffs had previously employed and raising concerns about the cost of further testing and the cost of potential remediation. On December 1, 2005, Mr. Sherman wrote to Mr. Chie again, seeking Plaintiffs' confirmation that they would allow further testing. The letter continued, "I would like an understanding that the transaction remains contingent upon a resolution of the environmental issues with either party retaining the right to terminate the agreement at any time." (Pl. Ex. 10).

On December 5, 2005, Mr. Chie responded to Mr. Sherman, stating that Mr. Kim would not agree to further environmental testing. The letter stated, "If your client is still interested in purchasing the property, we will continue the negotiation in terms of any unresolved issues, but if your client still insist [*sic*] upon the testing, we will have to terminate the transaction. Please advise." (Pl. Ex. 12). Mr. Sherman responded by facsimile: "If the purchase price is lowered by $350,000.00, [Mr. Punjabi] will take it as is." (Pl. Ex. 13).

The Kims rejected this offer, and on December 30, 2005, they returned the $475,000 cash to Mr. Punjabi. On January 3, 2005, Mr. Chie memorialized the Kims' decision in a letter. He asked Mr. Sherman whether he should send the earnest money to Mr. Sherman's office. (Pl. Ex. 16).

Mr. Sherman wrote back the following day, acknowledging receipt of the termination notice. He also stated that Mr. Punjabi was "willing to proceed. The only additional credits he is looking for are reimbursement for the $2,000.00 for the environmental engineers and interest on his entire earnest money deposit." (Pl. Ex. 18). Mr. Sherman added, "It seems your client is in possession of funds not referenced." (*Id.*).

As it turns out, neither attorney had been made aware of the $475,000 cash portion of the transaction.

On January 6, 2006, Mr. Punjabi purchased a cashier's check in the amount of $1,380,000 payable to his attorney, Mr. Sherman. He also prepared a check payable to Mr. Sherman in the amount of $11,250.

On January 9, 2006, Mr. Sherman sent Mr. Chie a facsimile. It stated: "We have the money and are ready to close as soon as possible. Could you please just sign off on this indicating that the deal is back on? We have nothing in writing." (Def. Ex. 27). Mr. Chie signed this facsimile transmission sheet. The next day, Mr. Sherman sent another facsimile transmission sheet to Mr. Chie, requesting the documents be "made out in the name of 4710 W. Montrose LLC. And please alert the title company, as well." (Def. 28). However, on January 12, 2006, Mr. Chie wrote back: "I am not sure whether there is miscommunication between the parties and/or attorneys, but the transaction will proceed once the parties have agreed to all the essential terms." (Def. Ex. 29).

Following these exchanges, on February 29, 2006, Mr. Chie wrote to Mr. Sherman, stating, "Since there is not [*sic*] meeting of the minds on the above matter, we are hereby terminating all negotiations. Please instruct me as to the earnest money." (Pl. Ex. 20).

On March 1, 2006, Mr. Sherman again wrote to Mr. Chie. His letter advised, "Per your letter of confirmation and our subsequent discussions, my client is prepared to proceed with the purchase of this property. He has instructed me to move aggressively to get this matter closed." (Def. Ex. 33). Some days later, on March 7, 2006, Defendants recorded the October 10, 2005 contract with the Cook County Recorder of Deeds. (Pl.

Ex. 22). That same date, Mr. Sherman advised Mr. Chie that Mr. Punjabi asked for a referral to an attorney to file an action for specific performance. (Def. Ex. 34).

Later, on April 10, 2006, Mr. Chie wrote to Mr. Sherman that the parties "have no meeting of the minds" and demanded that Mr. Punjabi "release the recorded contract." (Pl. Ex. 23).

Findings of Fact and Conclusion of Law

Although the documents establish many aspects of the transaction, there are disputed facts pertaining to the actual agreement between the parties. These factual issues will be resolved in the context of the parties' claims.

A. The Existence of a Contract

The resolution of both parties' claims depends first upon whether a binding contract exists. In order to establish their claim for breach of contract (and specific performance), Defendants (Counter-plaintiffs) must prove that a contract existed; that they performed their obligations under the contract, that Plaintiffs (Counter-defendants) breached the contract, and damages as a result of the breach. *Kopley Group V, L.P. v. Sheridan Edgewater Props, Ltd.*, 376 Ill. App. 3d 1006, 1014 (1st Dist. 2007). To be legally binding, an agreement must be reasonably certain in its terms. *Midwest Builder Distrib, Inc. v. Lord and Essex, Inc.*, 383 Ill. App. 3d 645, 658 (1st Dist. 2007). If the Court is unable to ascertain the terms of the contract, no enforceable contract can be held to exist. *Id.*

(1) The Side Agreement Theory and Existence of a Contract

Defendants have presented a number of theories with respect to the parties' agreement. One of the theories depends upon whether the parties entered into a "side"

agreement in addition to the signed real estate sales contract. (Pl. Ex. 1). Specifically, Defendants argue that the October 10, 2005 contract essentially consisted of two agreements: 1) the written contract for the sale of the property for $1,500,000; and 2) a side agreement by which Plaintiffs would deliver the property in an environmentally satisfactory condition for an additional $475,000 in cash. In contrast, Plaintiffs claim that the $475,000 was simply additional earnest money. Various motives were presented as to why the cash deal was entered into, including both parties' desire to reduce or avoid taxation on the full amount.

When analyzed, the facts presented do not support Defendants' characterization of the transaction as consisting of two agreements, the written contract and an oral side agreement. Rather, the facts indicate that there was a single agreement to sell the property for $1,975,000, with a portion of the price ($475,000) to be paid in cash. Furthermore, the facts establish that the October 18, 2005 modifications were intended to modify the entire agreement of the parties.

The parties presented conflicting testimony about whether environmental issues were discussed at the time of contract formation. Mr. Ahn and Mr. Kim testified that the parties never discussed environmental issues before or at the time the contract was executed. In contrast, Mr. Punjabi testified that he expressed his concerns about environmental issues from the beginning. Whether environmental concerns were discussed initially or not, they were the subject of each party's counteroffers immediately upon each party involving his attorney.

Moreover, Mr. Punjabi testified in some detail how the negotiations played out. Specifically, he discussed each party's starting sale price and stated that the parties

ultimately settled on $1,500,000 and $475,000 in cash. The thrust of this testimony is that the final sale price, including the cash portion, was a negotiated sale price, and the intention of the parties was to sell the property for $1,975,000.

The documentary evidence, contemporaneous writings, and inferences drawn from the writings are consistent with this finding. Those writings establish that although the environmental condition of the property was a factor early on, no credible evidence shows that the $475,000 cash payments were anything other than an integral part of the parties' agreement on the sale price. Within days of executing the written contract, the parties were in touch with their respective lawyers, and these lawyers almost immediately exchanged proposed modifications to the written contract. Both attorneys' proposals contained changes in provision R-6, which dealt with environmental inspection issues. In the end, the parties agreed to adopt Mr. Chie's proposal, the terms of which are detailed above. (Pl. Ex. 7).

Significantly, when making each proposal, neither attorney knew about the $475,000 cash payment. It is undisputed that both lawyers learned about the cash exchange after the money was returned. Indeed, in Mr. Sherman's January 4, 2006 letter, he is still under the impression that Plaintiffs had possession of the cash, when in fact the Kims had already returned those funds. Had Mr. Punjabi intended the $475,000 cash payment to be part of a side deal tied to obtaining environmentally clean property, he certainly would have conveyed that to Mr. Sherman. After all, Mr. Sherman apparently thought environmental issues were an important aspect of the purchase, and $475,000 is a significant sum of money, being nearly 25% of the purchase price.

Additionally, Mr. Sherman's January 4, 2006 letter contains a counter-proposal to

Mr. Chie's termination notice of the day before. It refers to interest on "his entire earnest money deposit." That reference is followed immediately by the sentence, "it seems your client is in possession of funds not referenced." (Pl. Ex. 18). The logical inference from these statements is that Mr. Sherman was made aware of the $475,000 cash payment at least at the time of writing and was asking for interest on that payment, as well as the $50,000 referenced in the written contract.[3] In any event, all of these facts are inconsistent with the theory that the parties formed a separate side agreement.

Defendants have also argued that the contract was modified on October 18, 2005, apparently by Mr. Sherman's acceptance of Mr. Chie's letter. (Pl. Exs. 5 & 7). By that letter, the provisions concerning the environmental issues were as follows. First, Plaintiffs were obliged to supply any currently existing EPA reports and letters. Second, Defendants were obliged to conduct any inspections of the property, including environmental inspections, and to assume the risk of any conditions that the inspections revealed or failed to reveal. In addition, Defendants acknowledged that they were acquiring the property in an "as is, where is and with all faults" basis. This portion of Mr. Chie's letter also noted that the property was being acquired at a discounted price to account for the "as is" condition of sale.

Defendants are correct that the evidence establishes that the written contract was modified in accordance with the terms set out in Mr. Chie's October 18, 2005 letter. Mr. Chie's subsequent letter of October 27, 2005 confirms this change. Defendants are not correct, however, in reaching the corresponding conclusion that this modification was to apply to the written contract alone. As indicated above, the negotiations resulted in a

[3] Mr. Sherman did not testify. Therefore, there was no opportunity to question him about what these sentences meant.

contract price, and the parties allowed the attorneys to work out the specifics concerning inspections, conditions, and like matters.

(2) Termination of the Contract

The evidence also establishes that the original agreement was terminated by mutual assent of the parties in late December and early January 2006. In November and December, Mr. Punjabi became increasingly troubled by environmental reports. In accordance with the October 18, 2005 modification, Mr. Punjabi was in possession of an environmental report completed a few years earlier when Mr. Kim acquired the Montrose property. From information he obtained from the experts responsible for that report and further studies, Mr. Punjabi was paying additional monies for inspections and was becoming alarmed that potential clean-up costs could be as high as $680,000. So, on December 1, 2005, Mr. Sherman attempted to reserve the right of both parties to terminate the contract if the environmental issues could not be worked out.

In response, on December 5, 2005, Mr. Chie, on behalf of Mr. Kim, refused any further environmental testing and left the door open for further negotiations only if those issues remained at rest. The next day, Mr. Ahn spoke to Mr. Punjabi on this topic. Mr. Punjabi indicated that he was not interested in the property without testing. Mr. Ahn confirmed this decision by writing "Final no by Eddie" following their conversation. Mr. Punjabi, in turn, tried to keep the negotiations alive by offering to buy the property "as is" if the sale price was reduced by $350,000. (Pl. Ex. 13). The Kims refused this counterproposal and returned the $475,000 in cash to Mr. Punjabi on December 30, 2005. This termination was confirmed by Mr. Chie in a letter a few days later. Mr. Chie sought direction as to where to send the earnest money.

Defendants also argue that when the $475,000 cash payment was returned, the parties intended to terminate the side agreement only, not the entire contract. As determined above, the evidence does not permit the conclusion that a separate agreement existed. Therefore, the only proper conclusion is that the parties terminated their agreement on December 30, 2005 when $475,000 in cash was returned to Mr. Punjabi and Mr. Chie sought to return the $50,000 earnest money. Indeed, Mr. Punjabi himself testified that Mr. Ahn advised him that the deal was terminated.

(3) **Negotiations Following the Termination**

After December 30, 2005, Mr. Punjabi persisted in his efforts to acquire the property. On January 4, 2006, Mr. Sherman made a counteroffer concerning the payment of interest and a share of the costs of environmental engineers. Apparently Mr. Ahn and Mr. Punjabi discussed another alternative, the terms of which are not clear from the evidence. However, it is clear that Mr. Ahn rejected the proposal. (Pl. Ex. 19).

After these documented communications, the evidence with respect to the parties and the negotiations becomes blurred. Equally undefined is what the terms of any agreement might have been. Mr. Punjabi testified that Mr. Ahn asked him what he wanted to do and that he responded that he preferred to leave the sale price at $1,450,000 and to purchase the property in an "as is" condition. He testified that the parties reached some kind of accord on January 10, 2006.

Defendants' position is not plausible in light of other circumstances and the contemporaneous writing. After months of negotiating and then returning funds of nearly one-half million dollars, it would make little sense for Mr. Kim to agree to reduce the price and sell the property "as is" for the $1,500,000 set out in the written agreement. After

October 18, 2005, Mr. Kim believed that he was selling the property in an "as is" condition for substantially more money.

In addition, contemporaneous writings show confusion in the parties' positions and lead to the conclusion that, in the end, there was no meeting of the minds. For example, on January 10, 2006, Mr. Chie signed a facsimile cover sheet indicating that he is "accepting for seller" the fact that the deal is back on. (Def. Ex. 28). Yet, two days later, Mr. Chie wrote raising concerns about a "miscommunication" that apparently existed between the parties and/or the attorneys. (Def. Ex. 29). He also halted the transaction pending assurances that "the parties have agreed to all essential terms." (*Id.*). Finally, on February 28, 2006, he expressly advised Mr. Sherman that there was no meeting of the minds and that he was terminating negotiations.

Meanwhile, on January 6, 2006, Mr. Punjabi obtained a cashier's check in the amount of $1,380,000 and another check for $11,250. (Def. Exs. 30 & 31). His attorney sent instructions for closing documents on January 10, 2006. On March 1, 2006, Mr. Sherman was still indicating Mr. Punjabi's intent to proceed. The evidence establishes that the parties were in continued negotiations, but it does not demonstrate that they ever culminated into an agreement.

This interpretation is consistent with Mr. Chie's testimony. Mr. Chie was a credible witness. He stated that the parties attempted to "revive" the deal, but there was still miscommunication about the purchase price.

This evidence is insufficient to establish that the parties came to some agreement after they terminated their agreement on December 30, 2005. Although Mr. Punjabi remained interested in continued negotiations, those negotiations never ended with

agreement about essential terms of the contract, including the price of the property and the condition in which it would be sold. In short, there was no meeting of the minds, and subsequent negotiations never materialized into a new agreement with definite terms and both parties' assent.

(4) Recording the Contract

Mr. Punjabi recorded the contract on March 7, 2006 on Mr. Sherman's advice. Some settlement discussions took place after that event. In addition, at the end of March, Mr. Sherman wrote to Mr. Chie explaining that the parties agreed to the purchase of the property for $1,500,000 as is' and that Mr. Kim "attempted to terminate the contract" once Mr. Punjabi left for India. (Def. Ex. 37). According to Mr. Punjabi, he and Mr. Kim met at a trade show in Las Vegas around the first week of March 2006. Mr. Kim advised him that he did not want to sell the building so that he could allow his brother in law to use it.

Mr. Kim's brother-in-law began operating his business from the Montrose property in March 2006. Construction to ready the place for this business took place that same month.

Defendants assert that Mr. Kim breached the contract and that his motive for doing so was to make the property available to his brother-in-law. It is unnecessary to resolve any factual disputes about the conversation between Mr. Kim and Mr. Punjabi in Las Vegas. Under the Court's interpretation of the evidence, the contract ended long before their meeting, and the dealings following termination are not sufficiently certain as to show that a subsequent agreement took place. Further, there is no evidence of any work being done on the property to ready it for the brother-in-law's business while the agreement was still in existence. Therefore, any motivations Mr. Kim may have had to

discontinue negotiations after December 30, 2005 are not relevant to the resolution of the issues.

B. Specific Performance

Since the Court finds that no binding contract exists, there is no basis for an award of specific performance. *Calvary Temple Assembly of God v. Lossman*, 200 Ill. App. 3d 102, 105 (2nd Dist. 1990) ("specific performance is proper only when the contract sought to be enforced is clear, definite, and complete"). In particular, a party is entitled to specific performance only when the contract is "so certain and unambiguous in its terms and in all its parts that a court can require the specific thing contracted for to be done." *Schilling v. Stahl*, 395 Ill. App. 3d 882, 884-85 (2nd Dist. 2009). Where, as here, the evidence not only fails to reveal a meeting of the minds but does so precisely because the terms of agreement are not clear, Defendants are not entitled to specific performance.

C. Quiet Title

Plaintiffs have asked the Court to quiet title in their favor and to remove the cloud on title created by Defendants' recording the October 10, 2005 sale contract with the Cook County Recorder of Deeds. In order recover on the equitable claim of quiet title, Plaintiffs must establish title that is superior to that of Defendants. *Marlow v. Malone*, 315 Ill. App. 3d 807, 812 (4th Dist.), *appeal denied*, 192 Ill. 2d 692 (2000). Where Defendants have failed to establish the existence of a contract for the sale of the property, they have no claim to title to the property. Accordingly, Plaintiffs are entitled to judgment on their claim to quiet title. Title is quieted in favor of Plaintiffs, there being no basis for the continued recording of the October 10, 2005 contract. Such recording creates an improper cloud on Plaintiffs' title.

D. Slander of Title

Plaintiffs seek damages caused by the recording of the contract based on a cause of action for slander of title. "Slander of title is the false and malicious publication, oral or written, of words which disparage an individual's title to property resulting in special damages." *McDonald's Corp. v. American Motorists Ins. Co.*, 321 Ill. App. 3d 972, 988 (2nd Dist.), *appeal denied*, 196 Ill. 2d 545 (2001). To prove slander of title, Plaintiffs had to establish that 1) Defendants made a false and malicious publication; 2) that such publication disparaged Plaintiffs' title; 3) damages; and 4) that Defendants acted with malice or reckless disregard. *Gambino v. Boulevard Mortgage Corp.*, 398 Ill. App. 3d 21, 62 (1st Dist. 2009), *appeal denied*, 236 Ill. 2d 553 (2010). The element of malice or reckless disregard must be established by evidence that shows "that the defendant knew that the disparaging statements were false or that the statements were made with reckless disregard of their truth or falsity." *Id.*

The evidence presented at trial does not amount to the type of malice or reckless disregard of the truth that gives rise to an action for slander of title. Rather, the evidence establishes that the parties appeared to be traveling on different paths and that communications between them and their lawyers were not always in harmony. Mr. Chie's letter of January 12, 2006, in which he is unable to pinpoint the source of "miscommunication" seems an accurate description of the events. (Def. Ex. 29 (incorrectly dated January 12, 2005)). The facts are not clear as to who continued in the negotiations from Mr. Kim's side or to what extent each party's attorney remained involved. At best, the evidence shows that Mr. Punjabi would not resign himself that the contract ended in December and was adamant that the negotiations continue. When he recorded the

contract, he did so on the advice of counsel. Given these circumstances, malice has not been established. Additionally, no damages have been shown as a result of the recording. The property is being used by Mr. Kim's brother-in-law, and no evidence establishes injury to the Kims. Plaintiffs are not entitled to any relief on this claim.

IT IS THEREFORE ORDERED:

1. Plaintiffs have established their claim for quiet title. Title to the property commonly known as 4710 West Montrose, Chicago, Illinois, is quieted in their favor. The recording is held invalid and stricken of record. Judgment is entered in favor of Plaintiffs and against Defendants on this claim (Count I);

2. Plaintiffs have not established that Defendants acted with malice when recording the October 10, 2005 contract or damages. Therefore, they have not sustained their claim for slander of title and are entitled to no relief on this claim (Count II);

3. Defendants (Counter-plaintiffs) have not established that a contract for the sale of real property existed. Therefore, they have not sustained their counterclaim for breach of contract (Counterclaim II) or their entitlement to specific performance (Counterclaim I). Judgment is entered in favor of Plaintiffs (Counter-defendants) and against Defendants (Counter-plaintiffs) on the counterclaims.

Date: _____ Enter: JUDGE RITA M. NOVAK

Rita M. Novak NOV 04 2010
Judge Presiding
Circuit Court-1741

Legal description:

THAT PART OF BLOCK 33 IN MONTROSE LYING EAST OF THE CHICAGO MILWAUKEE AND ST. PAUL RAILROAD, IN THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 15, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NO. 13-15-126-005-0000

THIS INSTRUMENT WAS PREPARED BY