

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION**

NGUYEN, et al.	:	NOVEMBER TERM 2004
	:	
v.	:	NO. 3568
	:	
QUACH	:	CONTROL NO. 050389
	:	

OPINION

Presently before the Court is the summary judgment motion of Defendant Cindy Quach (“Quach”). For the reasons discussed below, the motion is granted.

FACTUAL BACKGROUND

Cuong Chi Nguyen, a/k/a Richard Nguyen (“Richard”), is Quach’s brother. Their mother is Cuc Thi Tran (“Tran”) and their father is Tu Van Nguyen (“Nguyen”). The family lived in a house at 1341 South 8th Street, Philadelphia, Pennsylvania (“the Property”) together for approximately eight years. Complaint ¶11, November Term 2004 No. 3568. Quach purchased the Property on or about May 29, 2001, and her parents and brother continued to live there. Complaint ¶¶ 14, 17, November Term 2004 No. 3568. Quach and Tran entered into a lease agreement whereby Tran agreed to pay rent to Quach so that she and Nguyen could reside in the Property. Complaint ¶ 17, November Term 2004 No. 3568.

Richard filed suit in the Philadelphia Court of Common Pleas on or about May 2003. Nguyen v. Quach, May Term 2003 No. 3923 (“Case One”). In this case, Richard alleged that he and Quach entered into an oral agreement whereby they would jointly purchase the Property for their parents to reside. Complaint ¶¶ 8, 9, Case One. He alleged that he spent \$7,558.69 on supplies and renovated the Property, and gave Quach \$10,000 to purchase the Property, which was for sale for \$52,000. Complaint ¶¶ 5, 6, 11, Case One. He further alleged that Quach

breached the oral agreement by purchasing the Property as sole owner, and that through fraud Quach convinced Richard to give her money towards the purchase price. Complaint ¶¶ 17-30, Case One. Richard terminated the case on or about March 23, 2004 by filing a praecipe to discontinue the case without prejudice. Docket, Case One.

On or about May or June 2003, Quach filed a landlord-tenant action against Tran and all other occupants of the Property. Cindy Quach v. Cuc Tran and All Other Occupants, Claim No. LT-03/05/07-0501 (“Case Two”).¹ The Honorable Robert Blasi heard the case on or about July 10, 2003. N.T. pp. 1-39, Case Two. Richard testified that he spent \$7,500 to \$8,000 in repairing the Property and gave Quach \$10,000 towards the purchase of the Property. N.T. pp. 30-32, Case Two. He further testified that the Property was purchased so his parents could reside there. N.T. p. 32, Case Two. Tran testified that she paid \$2,000 towards the Property and \$2,500 for property taxes. N.T. p. 36, Case Two. Judge Blasi awarded Quach back rent and possession of the Property. N.T. p. 39, Case Two.

On or about May or June 2004, Quach filed another landlord-tenant action against Tran and all other occupants of the Property. Cindy Quach v. Cuc Tran and All Other Occupants, Claim No. LT-04/05/19-1704 (“Case Three”). On or about June 23, 2004, the Honorable Craig Washington heard the case, found in favor of Quach, and awarded her back rent and possession of the Property. Case Docket View, Case Three. Tran appealed this case under the caption Quach v. Tran, June Term 2004 No. 3424 (“Case Four”). A default judgment was taken against Tran in Case Four. Docket, Case Four. Tran petitioned to open the default judgment, which petition was denied on or about January 31, 2005. Docket, Case Four.

The instant case was filed on or about November 29, 2004 by Nguyen, Tran, and Richard

¹ The occupants of the Property at the time of trial were Tran, Nguyen, and Richard. N.T. pp. 12, 21, Case Two.

against Quach. Nguyen et al. v. Quach, November Term 2004 No. 3568 (“Case Five”). The claims in Case Five address whether the parties stand in a landlord-tenant relationship to one another; who possessed ownership interests in the Property; and whether Quach breached an oral agreement for the purchase of the Property.² Plaintiffs allege that Tran and Nguyen contributed \$6,500 for the purchase of the Property pursuant to an oral agreement, but were not owners. Complaint ¶¶ 12, 13, Case Five. The Complaint also includes monetary charges for Richard, Tran, and Nguyen’s labor in allegedly renovating the Property. Complaint ¶¶ 22, 23, Case Five. Through the history of these cases, this is the first time any Plaintiff claimed that his or her labor repairing the Property created an equity interest in the Property, and the first time Tran and Nguyen assert that their contributions of money and labor evince that they had an ownership interest in the Property.

DISCUSSION

Summary judgment is proper where the pleadings and evidence demonstrate that there is no genuine issue of material fact and that the movant is entitled to judgment as a matter of law. Horne v. Haladay, 728 A.2d 954, 955 (Pa. Super. Ct. 1999), citing Pa.R.C.P. 1035.2. Summary judgment is also appropriate if, after discovery relevant to the motion is complete, the party who bears the burden of establishing facts essential to his cause of action has failed to produce

² Specifically, Plaintiffs petition the Court for a declaration that there was an oral agreement between Quach and Plaintiffs; a declaration that Plaintiffs are joint owners of the Property; an order that the Recorder of Deeds register Plaintiffs as part owners of the Property; an order that Quach not sell or encumber the Property; a declaration that Quach and Tran are co-owners and not landlord and tenant; a declaration that the lease between Quach and Tran is null and void; declaring that Richard has an interest in the Property worth \$24,758.69; declaring that Tran and Nguyen have an interest in the Property worth \$8,180 for their contribution and labor for a total interest of \$42,380 (see below); and granting Plaintiffs the costs of the lawsuit. Complaint pp. 4-6, November Term 2004 No. 3568; Response to Motion for Summary Judgment, Exh. 9 (showing that Quach sold the Property in October 2005).

Plaintiffs also petition the Court for a judgment against Quach for \$34,200, or one-quarter of the shared family expenses from June 1991, when the family moved to the United States, through May 2001, when Quach purchased the Property. Complaint ¶ 24. Without an express contract to the contrary, the law presumes that services rendered by family members to one another are rendered gratuitously. Mensch Estate, 13 Pa. D.&C.2d 715, 723 (1957). Since there is no indication from the submissions to the Court that Quach expressly agreed to pay her parents for her costs of living, the Court will not address this claim further.

evidence of those facts. Pa.R.C.P. 1035.2(2). Additionally, summary judgment is appropriate where an issue essential to the determination in the instant case has already been fully and fairly litigated in a previous case involving the same parties, and there was a final determination on the merits of the prior case. Atiyeh v. Bear, 456 Pa. Super. 548, 559-60 (1997) (holding that a bankruptcy court's determination that a plaintiff had rejected an executory contract required a court to grant summary judgment to the defendant on the issue of the plaintiff's rejection of the executory contract).

A. Collateral Estoppel Bars Relitigation of the Landlord-Tenant Issue, and Quach Was the Landlord and Plaintiffs Were Tenants.

Plaintiffs assert that they were owners of the Property and not tenants, but the issue of ownership has already been litigated in Cases Two through Four. Collateral estoppel serves to bar litigation of a current action if (1) the issue decided in the prior adjudication was identical to the issue in the current action; (2) there was a final judgment on the merits; (3) the party against whom the plea is asserted was a party or in privity with a party to the prior action; and (4) the party against whom the current action is asserted had a full and fair opportunity to litigate the issue in question in a prior action. Tucker v. Philadelphia Daily News, 577 Pa. 598, 608 (2004). The determination in the prior action must have been essential to the case. Atiyeh, 456 Pa. Super. at 557. A party to an action may not assert a fact inconsistent with an assertion in a previous action. Trowbridge v. The Scranton Artificial Limb Co., 560 Pa. 640, 644 (2000).

In the prior landlord-tenant actions, the issue was whether Quach was the landlord at the Property and whether she was owed rent. In Cases Two and Three Judges Blasi and Washington each held in favor of Quach, awarding her possession of the Property and rent owed. Both actions were brought by Quach against Tran, Nguyen and Richard. Plaintiffs had a full and fair opportunity to litigate, shown by the fact that Richard and Tran each testified at the hearing

before Judge Blasi and maintained that they contributed to the purchase price. The landlord-tenant issue in the instant case is identical to the issue in Cases Two and Three, the parties are identical, there were final judgments on the merits, Plaintiffs had a full and fair opportunity to litigate the issue, and the determination of whether Quach was landlord and Plaintiffs were tenants was essential to the rulings in those cases. Collateral estoppel serves to bar relitigation of the landlord-tenant issue, Quach was landlord, and Plaintiffs were tenants at the Property.

B. The Statute of Frauds Precludes Plaintiffs' Arguments as to Ownership of the Property and Breach of the Alleged Oral Agreement to Purchase the Property.

Plaintiffs assert that Quach breached an oral agreement regarding ownership of the Property, and that they are part owners of the Property by virtue of their contributions of money and labor. Contracts regarding the ownership of property generally must be in writing or they are unenforceable under the Statute of Frauds. 33 P.S. § 1. An oral contract regarding the ownership of real property falls outside the Statute of Frauds where the terms of the contract are shown by full, complete, and satisfactory proof, and where the oral contract fixes the amount of consideration. Kurland v. Stolker, 516 Pa. 587, 592 (1987).

The terms of the alleged oral agreement are not sufficiently definite to bring the agreement outside the Statute of Frauds. In Cases One and Two, Richard asserted that the oral agreement required him to pay Quach \$10,000 and obtain the supplies to repair the Property, in exchange for which Richard and Quach would jointly purchase the Property. In Case Five, Richard asserts that the terms of the oral agreement were for him to pay \$10,000, purchase the supplies, *and* repair the Property in exchange for an ownership interest. The Complaint asserts that this cost of labor adds to the value of his interest in the Property. It is evident that Richard has not proven the precise terms of the alleged oral agreement, because he has not shown that the

original oral agreement included the value of his labor in repairing the Property.³

Tran and Nguyen are precluded from successfully asserting that they have an ownership interest in the Property, because they cannot prove the specific terms of their alleged oral agreement with Quach. Tran testified in Case Two that she and Nguyen contributed \$4,500 total to Quach for the Property. However, the Complaint in Case Five states that Tran and Nguyen would not be owners “because it was not appropriate for recipients of public welfare . . . to own a house.” Complaint ¶ 12, Case Five.⁴ They may have contributed some amount of money towards the purchase of the Property, but it was not to purchase an interest in the Property. Additionally, Tran and Nguyen assert in Case Five that the costs of their labor in repairing the Property add to their ownership interest, but they also assert in Case Five that they had no ownership interest.

In sum, because Richard, Tran, and Nguyen have not proven the terms of their alleged oral contracts, Quach was the sole owner of the Property and no contribution made by Richard, Tran, or Nguyen establishes an ownership interest.

³ Richard has maintained that he gave Quach money towards the purchase of the Property and purchased supplies to renovate the Property. Complaint, Case One; Complaint, Case Five. He has, however, failed to include the theory of unjust enrichment in his Complaints. A cause of action for unjust enrichment arises when one party to a transaction, acting without an express contract, confers a benefit on the other party to the detriment of the actor, without any corresponding exchange of value. Diener Brick Co. v. Mastro Masonry Constr., 885 A.2d 1034, 1039 (Pa. Super. Ct. 2005). Richard may have conferred a benefit on Quach pursuant to a quasi-contractual relationship without any corresponding benefit from Quach, but his failure to assert a claim for unjust enrichment based on quasi-contract precludes his recovery under this theory.

⁴ In any event, the Court will not be party to welfare fraud.

CONCLUSION

For the foregoing reasons, Defendant Cindy Quach's Motion for Summary Judgment is granted. An Order consistent with this Opinion will be issued.

BY THE COURT:

Dated: June 6, 2007

HOWLAND W. ABRAMSON, J.