

West's
NORTH WESTERN
REPORTER

Second Series
A Unit of the National Reporter System



Volume 555 N.W.2d

*Cases Argued and Determined
in the Courts of*

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ST. PAUL, MINN.
WEST PUBLISHING CO.
1997

1996 SD 120

Gerald SCHULDIES and Carolyn Schuldies, Plaintiffs and Appellees,

v.

Charles MILLAR, Russell Millar, Rosalie Millar, individually and as Trustee of the Lyla May Stephens Johnson Trust and as Guardian of the Lyla May Stephens Johnson Guardianship, Lyla Johnson, individually and as Beneficiary of the Lyla May Stephens Johnson Trust and as Ward of the Lyla May Stephens Johnson Guardianship, LYLA May Stephens Johnson Trust, and Lyla May Stephens Johnson Guardianship, Defendants and Appellants.

Nos. 19269, 19292.

Supreme Court of South Dakota.

Considered on Briefs May 22, 1996.

Decided Sept. 25, 1996.

Rehearing Denied Nov. 1, 1996.

Ranch hands brought action against ranch owner, owner's daughter, husband, daughter's child, and owner's and guardianship, alleging breach of contract, interference with contractual relations, slander, and conversion. The Eighth Judicial District Court, Butte County, John R. [Name], J., entered judgment on jury awarding damages, along with prejudgment interest and punitive damages. Defendants appealed. The Supreme Court, [Name], J., held that: (1) statute of limitations barred claim for breach of lease; (2) if valid contract is not required, tortious interference with contractual relations question of when lease negotiations ceased was for jury; (4) owner and her trust guardianship estate were not shown liable for interfering with prospective lease agreement; (5) compliance with statutory requirements did not preclude bills of sale from transferring ownership of livestock; (6) there was no conversion of certificate of deposit (CD) under circumstances; (7) statutory provisions addressing award of prejudgment interest were

inapplicable; (8) intent or purpose to do wrong is necessary element of to establish conversion; (9) defendant did not support award or conversion of personal property; (10) defendant not required to hold evidentiary hearing on issue of punitive damages; (11) defendant's refusal to release property rightfully belonging to another may establish reason for punitive damage award; (12) defendant did not abuse its discretion in awarding \$150 to plaintiffs for photographing expenses; and (13) statute was insufficiently specific to allow attorney fees as damages on conversion claim.

Affirmed in part, reversed in part, and remanded.

Sabers, JJ. Opinion concurring in part and concurring specially in part.

1. Trial Error 178

Motion directed to set aside verdict questions legal sufficiency of evidence to sustain verdict against moving party and for remittitur motion, trial court must determine if there is any substantial evidence to sustain action; evidence must be viewed in light of which is most favorable to moving party and trial court must indicate legitimate inferences therefrom in favor of nonmoving party. SDCL 15-6-50(a).

2. Trial Error 142

If sufficient evidence exists that reasonable minds could differ, directed verdict is not appropriate. SDCL 15-6-50(a).

3. Appeal and Error 907(a)

Trial court's directed verdict rulings on motions for judgment notwithstanding the verdict are presumed correct, and appellate court will not seek reasons therefor. SDCL 15-6-50(a).

4. Judgment 9(5)

Motion for judgment notwithstanding the verdict is based on evidence that dates back to directed verdict motion and that close of all evidence and, thus, grounds asserted in support of directed verdict motion were brought before trial court for second review.



[when] causing a third person not to enter into or continue the prospective relation....").

[12] [¶ 14] Defendants argue they could not have interfered with the contractual relationship between Lyla and the Schuldies because there was no evidence presented that they knew of any lease negotiations until after discussions had already ended. The exact date negotiations ceased was a fact for the jury to decide. Attorney Richards testified Lyla intended to sign the contract during his last meeting with her on November 27, 1992, but he continued to work on the tax and income consequences of the lease. The Lyla May Stephens Johnson Trust was established on January 7, 1993, approximately five weeks after Lyla's last meeting with her attorney. The jury could infer from the conflicting evidence that negotiations were continuing and would have concluded in a valid lease had the Millars not interfered with Lyla's business relationship with the Schuldies. Viewing the evidence in a light most favorable to the nonmovants and giving them the benefit of all reasonable inferences fairly drawn from the evidence, we find no error in the court's submission of this issue to the jury and the denial of defendants' motions with respect to the Millars. *Haberer v. Rice*, 511 N.W.2d 279, 284 (S.D.1994).

[13] [¶ 15] Nonetheless, the trial court should have granted a directed verdict for Lyla. Even if it is imaginable one can be liable for interfering with one's own prospective contractual relations, the Schuldies never alleged, much less proved, Lyla was legally responsible in any way for interfering with the prospective lease agreement. Nor is there any evidence to support holding Lyla's trust and guardianship estates liable. We reverse the judgment in this regard.

[¶ 16] C. Bills of Sale

[¶ 17] Defendants argue their motions should have been granted on the issue of ownership of certain cattle supposedly transferred by Lyla to the Schuldies. For background purposes, we note the Schuldies acquired cattle from Lyla by different means over the years. First, in 1980, Lyla agreed to provide four heifers for each year of em-

ployment. At trial the parties stipulated that this transfer occurred each year, although formal transfer of title was not always accomplished. Second, Lyla transferred four cows to them as a Christmas bonus on December 29, 1992. Third, an agreement for the sale of sixteen head of broken mouth cattle was also made on December 29, 1992, with payment deferred until November 1993. The Schuldies testified the intent of the parties was that payment for the cows was to be derived from the calf crop from such cows, although they were to bear expenses and risk of loss. Last, an exchange of four of Schuldies' cattle for four of Lyla's was also consummated on December 29, 1992.

[14] [¶ 18] Bills of sale were produced for all the above transactions, except the annual compensation of four heifers. Defendants contend the bills of sale were insufficient to transfer ownership because the Schuldies failed to comply with the requirements of SDCL 40-20-26.2:

The provisions of § 40-20-26.1 notwithstanding, ownership of livestock with the seller's recorded and healed brand or the owner's unbranded livestock may be transferred by means of an authorized bill of sale without a brand inspection. The bill of sale shall be on a form prescribed by the board. A copy of an authorized bill of sale shall be forwarded to the board or its authorized inspecting agency within five days of such ownership transfer. An authorized bill of sale may transfer no more than five head of livestock to any one buyer. Multiple authorized bills of sale may not be executed to subdivide numbers of livestock greater than five to any one buyer.

They argue the bills of sale the Schuldies used were never mailed to the brand inspection board and the forms were outdated, thus violating the statute and voiding all transfers. Although misdemeanor charges may possibly result if livestock within an "ownership inspection area" (SDCL 40-20-1) are transferred in violation of the law, nothing in our statutory scheme renders the transactions invalid by failing to follow these procedures. See SDCL 40-20-26.1; 40-26-2.2. Indeed,