

No. 14-3721

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

HINA JAFRI,)	Appeal from the Circuit Court
)	of Cook County.
Plaintiff-Appellant,)	
)	
v.)	No. 10 L 31180
)	
MATLUB JAFRI, FARAH NAZ, JAFRI FAMILY)	
TRUST and JASDEEP SAINI,)	Honorable LeRoy K. Martin
)	Judges Presiding
Defendants-Appellees.)	

JUSTICE SIMON delivered the judgment of the court.
Presiding Justice Pierce and Justice Hyman concurred in the judgment.

ORDER

- ¶ 1 *Held:* The trial court did not err when it entered a directed finding in favor of defendants following plaintiff's case in chief in a bench trial.
- ¶ 2 Plaintiff Hina Jafri filed this case to quiet title to a property deeded to her by her father in 2007. In 2010, her father asked that she sign a deed transferring the property back to him. The deed was later notarized and recorded without Hina Jafri's knowledge or consent. She filed this suit seeking to quiet title and seeking damages against defendants for fraud, conspiracy, and notarial misconduct. The case proceeded to a bench trial and at the close of plaintiff's case, on motion, the

trial court entered a directed finding and entered judgment for defendants on each count. Hina Jafri appeals and, because the trial court committed no reversible error, we affirm.

¶ 3

BACKGROUND

¶ 4 Plaintiff Hina Jafri was the recipient of a quit claim deed for the property at 4201 North Avers in Chicago. The property was deeded to her by her father, defendant Matlub Jafri. In December 2007, and while Mr. Jafri was in his eighties, he suffered a heart attack. While in the hospital recovering from the heart attack, Mr. Jafri suffered a stroke. Still in the hospital recovering, Mr. Jafri retained an attorney for the purpose of quit claiming the property to his daughter. Hina Jafri testified that the reason the property was quit claimed to her was because Mr. Jafri wanted her to hold title in trust for the benefit of him in order to take care of one of his other daughters and her son. Hina Jafri received the deed in January 2008.

¶ 5 In May 2010, Mr. Jafri requested that Hina deed the property back to him. He had another deed drawn up and asked her to sign it. Hina signed it, but testified that she was influenced by her sense that her father was disappointed. Hina's sister, Anjum, was present for the execution of the second deed. Hina gave the executed deed to Anjum who put it on a closet shelf near Mr. Jafri's other important documents. The deed was recorded on May 18, 2010, and it was recorded as being notarized, but without Hina Jafri's knowledge or involvement. Mr. Jafri subsequently deeded the property into a family trust and that is where the property is held today.

¶ 6 Mr. Jafri had asked one of his other daughters, defendant Farah Naz, for help recording the deed. Farah's husband apparently contacted defendant Jasdeep Saini to notarize the deed and she did. Saini was not compensated for notarizing the document, but there was evidence that Farah's husband had referred customers to Saini's insurance agency in the past. When Hina found out that

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the deed she signed had been notarized and recorded, she filed this suit to quiet title and for other relief.

¶ 7 By the time the case went to trial, Hina Jafri had a claim to quiet title, a claim for a conspiracy to commit a fraudulent real estate transfer, and a claim for a violation of the Illinois Notary Public Act (5 ILCS 312/1-101 *et seq.*). The trial court heard testimony over two nonconsecutive days and, prompted by multiple defense motions for directed findings, issued a lengthy oral ruling. To summarize, the court found that Jasdeep Saini did in fact violate the Notary Public Act. However, the court found that Hina Jafri had suffered no damages as a result of that violation. The court found that there was no evidence that would sustain any of the claims against Mr. Jafri. The court found that, as to defendant Farah Naz, there was no evidence she assisted Saini in violating the Notary Public Act or that there was any evidence that anyone colluded or conspired to commit some type of wrongful act.

¶ 8 The main thrust of the trial and the lengthiest analysis offered by the trial court was of Hina Jafri's claim to quiet title. The trial court began its analysis of the evidence with the way in which Hina structured her claim. Hina alleged in her complaint, and held fast in her testimony, that Mr. Jafri deeded the property to her as a "constructive trust" to ensure that his daughter Anjum and her son Rashid would have a home to live in. Hina was deeded the home for the sole purpose of "protect[ing] the legal title of the Avers Ave. home for the benefit of Anjum and Rashid." Mr. Jafri placed the property in her trust, according to Hina. In light of this theory, the trial court stated, "if the plaintiff was holding it for the benefit of her father and her father asked her to return the property to him and she does by signing the deed, then what are we arguing about?" The trial court continued, "[if] she was not holding the property for her own benefit, but holding the property for

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the benefit of other parties and the creator asked for the return of the property then . . . I don't see how the plaintiff has shown that she's entitled to have title quieted in her, when by her own admission she was not holding the property for her own benefit . . ."

¶ 9 The trial court went further in its analysis and considered that, even if we disregard the fact that she was holding the property for someone else's benefit, her subsequent execution of the deed at her father's behest was a valid transfer of the property back to him. The court noted that Hina signed the deed voluntarily thereby denoting an intent to transfer title back to her father. Therefore, despite any of the questionable conduct used to notarize and record the deed, Hina demonstrated her intent to transfer the property to her father—a question of fact the trial court resolved in the defendants' favor. The trial court concluded that Hina Jafri was not entitled to quiet title and entered judgment for defendants on all counts. Hina appeals.

¶ 10 ANALYSIS

¶ 11 In a bench trial, at the close of the plaintiff's case, the defendant may move for judgment in his favor. 735 ILCS 5/2-1110. At that point, the court is to consider the weight and the quality of the evidence, including the credibility of the witnesses. *Id.* Where, as here, the trial court weighs the evidence when ruling on a motion for a directed finding, the appellate standard of review is the deferential manifest weight of the evidence standard. *Minch v. George*, 395 Ill. App. 3d 390, 398 (2009). Both parties agree that we are to review the trial court's ruling on plaintiff's claim to quiet title under the manifest weight of the evidence standard.

¶ 12 Hina Jafri argues that the trial court's decision to not quiet title to her was against the manifest weight of the evidence because she did not deliver the deed in question to her father. Instead, she argues, she signed the deed in her father's presence, but gave it to her sister for safe

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keeping, with her sister putting it in a closet. Hina claims that she only signed the deed to placate her emotionally overwrought father and she did not intend to deliver the deed or to transfer the property.

¶ 13 As the trial court explained, Hina's own testimony was that the property was never transferred to her for her own benefit in the first place. The entire makeup of her claim is that she was holding the property for the benefit of someone else. Taking that approach, Hina lacks any conceivable basis to now claim she is entitled to the beneficial interest in the property. By her own admission, that was never anyone's intention.

¶ 14 In addition, and more directly fatal to Hina Jafri's claim for quiet title is that she did, in fact, validly transfer the property back to her father by deed. Hina was contacted by her father and he advised her that he had a deed drawn up for the purpose of transferring the property back to him. Hina came to the residence and signed the deed in the presence of her father. Hina, and everyone else, knew that her father wanted her to sign the deed so that he could retake control of the property and she proceeded to sign it.

¶ 15 Hina refers to the general rule that no deed is effective to transfer ownership in property unless it is intentionally delivered by the transferor to the transferee. See *First Illinois Bank & Trust v. Galuska*, 255 Ill. App. 3d 86, 92 (1993). Relying on that rule, she argues that there was no delivery of the deed in this case because she could have handed it to her father, but instead handed it to her sister and the signed deed was placed in the closet. But whether delivery has occurred is a question of fact, a question of intent. *Kleinhaus v. Ohde*, 350 Ill. App. 177, 180 (1953) ("whether or not a deed has been delivered depends on intention of the grantor and the determination of that intention is a question of fact depending on the circumstances in each case"); see also *Estate of*

Mendelson v. Mendelson, 2016 IL App (2d) 150084, ¶ 20. The trial court here observed the witnesses' testimony and determined that Hina's intent at that time was indeed to transfer title to her father. She was summoned to sign the deed for the purpose of transferring the property back to her father and she did so. Hina offered her side—that she signed the deed and intended to later destroy it. The trial court rejected that proposition and found that there was intent to transfer. There is nothing in the record that could lead us to find that the trial court's finding on that question was against the manifest weight of the evidence. The finding is, actually, consistent with even Hina Jafri's testimony and the predominance of the evidence.

¶ 16 The apparent misconduct of getting the deed notarized and recorded is all irrelevant on the question of quieting title. Notarizing a deed is not necessary to transfer the property interest. *City of Virginia v. Mitchell*, 2013 IL App (4th) 120629, ¶ 27 (a deed need not even be acknowledged in order for it to pass title). Recording a deed is likewise not necessary to transfer the property interest. *Farmers State Bank v. Neese*, 281 Ill. App. 3d 98, 105 (1996). Recording is merely to put the public on notice that the property *has been transferred*, it is irrelevant as to the parties to the transaction. *Id.* So long as we deem the transfer valid, as the trial court did and we confirm now, then the inquiry is over insofar as it concerns Hina Jafri's claim for quiet title.

¶ 17 Hina Jafri also argues that the trial court erred by allowing the notary, Jasdeep Saini, to invoke her Fifth Amendment right against potential self-incrimination because Saini testified about relevant events and therefore waived her right to refuse to answer other questions. However, this is also irrelevant. Hina was not, nor could she have been, harmed by the notarization process. Once she validly and voluntarily deeded the property to her father, she could not be harmed. Even if we consider with the strongest adverse inference that the answers to the putative questions would

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have been harmful, it would not change the result of the case. Any testimony offered by Saini in lieu of invoking the Fifth Amendment would not give rise to damages for Hina Jafri. The trial court's finding that Hina failed to prove any damages for any violation of the Notary Public Act was not against the manifest weight of the evidence.

¶ 18 Hina also contends that she proved a conspiracy to fraudulently transfer the property. The trial court found that there was no evidence presented that there was any colluding or conspiring to do anything wrongful. In addition, Hina Jafri argues that the trial court erred by denying a motion that she filed after trial to reopen the proofs to submit the testimony of Fehim Uzzefer. Hina claims that Uzzefer would testify that he was present to observe Farrah Naz and her husband boasting about how they were able to get the deed falsely notarized. Again, both of these arguments revolve solely around the wrongful nature of the notarization of Hina's signature on the deed. As explained above, the notarization could not, as a matter of law, have caused her any harm. The valid and voluntary transfer of the deed from Hina back to her father is the operative and conclusive event that precludes her from recovering and precludes defendants from being liable.

¶ 19 We acknowledge defendants' arguments concerning plaintiff's violations of the Supreme Court Rules governing the form and content of briefs. However, consistent with our established preference of resolving appeals on their merits, we have done so. And on those merits, the trial court did not err when it entered a directed finding in favor of the defendants on each of the claims.

¶ 20 CONCLUSION

¶ 21 Accordingly, we affirm.

¶ 22 Affirmed.