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DISTRICT II

August 6, 2025

To:

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

2024AP1352

Redstone Offices, LLC v. Tracy Geiger (L.C. #2023CV1152)

Before Neubauer, P.J., Gundrum, and Lazar, JJ.

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).

This appeal stems from a dispute over a contract to purchase a commercial building. Redstone Offices LLC argues that the circuit court erred in denying its motion for summary judgment and granting summary judgment to the would-be purchasers, Tracy and Tiffany Geiger. Redstone sued the Geigers for specific performance after the Geigers gave notice that they would not be moving forward with the purchase because the financing contingency was not met. The court dismissed Redstone's claims against the Geigers after granting their summary judgment motion. Based upon our review of the briefs and Record, we conclude at conference

that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2023-24).¹
We summarily affirm.

The pertinent facts here are straightforward and undisputed. The Geigers submitted an offer to purchase an office building owned by Redstone. The Geigers used a standard WB-15 Commercial Offer to Purchase form and offered \$2,200,000 for the building. After Redstone extended a counter-offer, the Geigers signed the contract at issue here, which contained a standard financing contingency with specific details essential to the Geigers. The contingency read as follows:

This Offer is contingent upon Buyer being able to obtain a written Balloon Loan [loan type or specific lender, if any] first mortgage loan commitment as described below, within 60 days after acceptance of this Offer. The financing selected shall be in an amount of not less than \$1,760,000.00 for a term of not less than 30 years, amortized over not less than 30 years. ...

If Buyer qualifies for the loan described in this Offer or another loan acceptable to Buyer, Buyer agrees to deliver to Seller a copy of a written loan commitment. This contingency shall be satisfied if, after Buyer's review, Buyer delivers to Seller a copy of a written loan commitment (even if subject to conditions) that is:

- (1) signed by Buyer; or
- (2) accompanied by Buyer's written direction for delivery.

Delivery of a loan commitment by Buyer's lender or delivery accompanied by a notice of unacceptability shall not satisfy this contingency.

After several amendments to the contract, the financing terms agreed to by the parties required a minimum loan amount of \$1,760,000; minimum loan term of five years; amortization of the loan over twenty-five years; no prepayment penalty; maximum monthly payment amount of

¹ All references to the Wisconsin Statutes are to the 2023-24 version.

\$12,021.48; a maximum 1% loan fee; and a maximum interest rate of 6.625%. The other terms related to the financing contingency remained unchanged.

Attempting to secure financing consistent with the terms of the contract, the Geigers applied for a loan with their local bank, Port Washington State Bank (PWSB). PWSB denied their application, stating, “We have decided to decline the loan due to the cash flow of the subject property not being able to support the debt associated with the purchase. Based on this I will not be able to supply documentation to satisfy the financing contingency.” Unable to secure the bank loan, the Geigers provided notice to Redstone that financing had not been approved and, therefore, they were exercising their right to terminate the contract.

After receiving the Geiger’s notice, Redstone’s owner contacted his son, who owned a company called Sterling Investment Funds LLC, to see if Sterling would provide a loan for the Geigers. The Geigers were unaware of this contact and did not authorize Redstone’s owner to seek a loan on their behalf. Sterling never did any background checks, credit checks, never had a formal loan application process, and never spoke with the Geigers about the loan. The Geigers, who did not select the standard seller financing option in the WB-15 contract, did not sign this loan commitment. Because no signed commitment was delivered to Redstone, the sale could not proceed. Nonetheless, Sterling’s owner directed his company to send the unsigned loan commitment, funding, and fixed rate note for the purchase to a title company to attempt to enforce the sale. The Geigers did not appear for the closing, so no closing took place.

Redstone filed a complaint seeking specific performance from the Geigers. Redstone later filed a motion for summary judgment. Redstone argued that the unambiguous contract language required the Geigers to deliver a copy of the written loan commitment to Redstone

upon the Geigers obtaining a loan commitment consistent with the contract terms. Because Redstone had found a loan for the Geigers through Sterling that met the terms of the financing contingency, it argued the Geigers were not entitled to cancel the contract due to a lack of acceptable financing.

The Geigers responded with their own summary judgment motion, arguing that they had abided by the contract but terminated the contract when they were unable to secure acceptable financing, as the financing contingency allows. The Geigers also argued that the proximity of Redstone and Redstone's selected loan provider, Sterling, did not create an arms-length transaction that would require the Geigers to accept a loan for which they did not apply. They argued it was basically seller financing due to the close relationship between Redstone and Sterling, which the contract did not allow as an option. The circuit court agreed with the Geigers, granted them summary judgment, and dismissed Redstone's complaint. Redstone appeals.

Although Redstone advances four issues on appeal, all can be adequately addressed by our analysis of one question: whether the circuit court erred as a matter of law in denying Redstone's summary judgment motion and granting summary judgment to the Geigers. Summary judgment methodology is well established and need not be repeated here. *See, e.g., Green Spring Farms v. Kersten*, 136 Wis. 2d 304, 314-15, 401 N.W.2d 816 (1987). In essence, summary judgment is appropriate when no material factual dispute exists and the moving party is entitled to judgment as a matter of law. WIS. STAT. § 802.08(2). We review summary judgment de novo, applying the same method as the circuit court. *Green Spring Farms*, 136 Wis. 2d at 315. In addition, our review requires that we interpret the language of the real estate contract.

The construction of a written contract also is a question of law that we review without deference. *Galatowitsch v. Wanat*, 2000 WI App 236, ¶11, 239 Wis. 2d 558, 620 N.W.2d 618.

Despite Redstone’s attempt to complicate this appeal by dissecting the overarching issue into several sub-issues, we need only look to the specific contract terms at issue to determine whether the circuit court erred. Based on the undisputed facts and the terms of the contract, we conclude the financing contingency in the purchase contract was never satisfied.

As an initial matter, it is undisputed that the Geigers’ loan application was denied and financing would not be approved, as evidenced by the PWSB letter. It is also undisputed that the Geigers informed Redstone that their loan application had been denied and they were not able to meet the financing contingency. Under the plain terms of the contract, the purchase could not move forward because the financing contingency was not met.

Despite this obvious conclusion, Redstone argues that because it was able to secure a loan that met the requirements specified in the contract, the Geigers were obligated to deliver the signed loan commitment and go forward with the purchase of the office building. It is undisputed that the Geigers never authorized Redstone to apply for loans on their behalf, and the contract itself does not contain any provision authorizing Redstone to do so. As we now explain, we conclude that under the plain terms of the contract, delivery of the loan commitment to the title company did not satisfy the financing contingency.

The contract states that delivery of a written loan commitment to the sellers satisfies the financing contingency “if, after Buyer’s review, Buyer delivers to Seller a copy of a written loan commitment ... that is: (1) signed by Buyer; or (2) accompanied by Buyer’s written direction for delivery.” The contract further states, “Delivery of a loan commitment by Buyer’s lender or

delivery accompanied by a notice of unacceptability shall not satisfy this contingency.” Thus, the purchase contract unambiguously requires the buyer’s written consent before delivery of a loan commitment to the seller can satisfy the financing contingency. It is undisputed that the Geigers did not sign the loan consent or provide written direction for delivery of the loan commitment. It is further undisputed that the Geigers never authorized Sterling, the buyers’ purported lender, to deliver a loan commitment on their behalf. Consequently, delivery of the Sterling loan commitment did not satisfy the financing contingency.

A financing contingency in a contract to purchase real estate is a condition precedent to the buyer’s performance. *Gerruth Realty Co. v. Pire*, 17 Wis. 2d 89, 91, 115 N.W.2d 557 (1962). The purchase contract is not enforceable against the buyer until the condition precedent has taken place. *Woodland Realty, Inc. v. Winzenried*, 82 Wis. 2d 218, 223, 262 N.W.2d 106 (1978). Because the financing contingency in this case was never satisfied, the Geigers were not obligated to proceed with their purchase of Redstone’s office building. Accordingly, they did not breach the purchase contract by failing to close the transaction, and specific performance is not warranted. The circuit court properly granted summary judgment to the Geigers and against Redstone.²

² Our conclusions that the financing contingency was not met and the Geigers therefore were not obligated to move forward with the purchase are dispositive of this appeal. We do not address in detail each argument raised by the parties because we decide cases “on the narrowest possible grounds” and do not reach issues we need not reach. *Village of Slinger v. Polk Properties LLC*, 2021 WI 29, ¶26 n.12, 396 Wis. 2d 342, 957 N.W.2d 229.

IT IS ORDERED that the order of the circuit court is summarily affirmed pursuant to WIS. STAT. RULE 809.21.

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

Samuel A. Christensen
Clerk of Court of Appeals