

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
CHANCERY DIVISION**

KYLE HADLEY,

Plaintiff,

v.

BRANDON MCGIVERN,

Defendant.

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Case No. 2025-CH-05527

Judge Eve M. Reilly

Courtroom 2405

PLAINTIFF’S RESPONSE IN OPPOSITION TO DEFENDANT’S MOTION TO STRIKE

NOW COMES Plaintiff, KYLE HADLEY, by and through his attorneys, and in opposition to Defendant BRANDON MCGIVERN’s Motion to Strike, states as follows:

INTRODUCTION

1. Plaintiff Kyle Hadley and Defendant Brandon McGivern shared a long-term personal and professional relationship that culminated in a verbal agreement regarding the purchase of real property located at 6122 N. Winthrop Ave., Unit C in Chicago. Over the course of several years, Plaintiff made significant financial contributions toward the mortgage, utilities, taxes, and maintenance of the property, with the understanding and consent of Defendant that these payments would be credited toward the agreed purchase price.

2. Plaintiff’s verified complaint details specific terms of the verbal agreement, along with the parties’ conduct confirming its existence. Defendant not only encouraged Plaintiff’s financial and physical occupancy of the property, but also coordinated with him over years concerning improvements, repairs, and the timing of a formal closing. It was not until the

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property had significantly appreciated in value that Defendant abruptly disavowed their agreement, rejected Plaintiff's continued payments, and sought to evict him.

3. Defendant's Motion to Strike alleges that "Plaintiff fails to allege the essential elements of a contract," and that "the Complaint is conclusory, speculative, and relies on inadmissible parol evidence." These assertions are inaccurate and overlook the numerous specific, fact-based allegations presented throughout Plaintiff's Complaint.

4. For instance, Paragraph 18 of the Complaint states: "Plaintiff paid thousands of dollars in mortgage payments, utilities, taxes, and maintenance in reliance on the parties' agreement," and Paragraph 24 alleges: "Defendant acknowledged in text and email communications that Plaintiff would become the owner after satisfying agreed-upon financial terms." These are not legal conclusions—they are statements of fact, supported by documentation.

5. As such, the Motion to Strike must be denied. Plaintiff has sufficiently stated a claim, supported by concrete allegations and conduct that fall squarely within recognized exceptions to the Statute of Frauds. Factual issues concerning the terms and performance of the agreement are not suitable for disposition at the pleading stage, and this case should proceed to discovery and resolution on the merits.

LEGAL STANDARD

6. Under Illinois law, a motion to strike a pleading is appropriate only if the pleading is so clearly insufficient that it cannot possibly be cured by amendment. 735 ILCS 5/2-615. In ruling on such motions, the court must accept as true all well-pleaded facts in the complaint and draw all reasonable inferences in favor of the non-moving party. See *Vitro v. Mihelcic*, 209 Ill. 2d 76, 89 (2004).

7. Illinois courts disfavor motions to strike and prefer resolution of claims on their merits. At the pleading stage, the issue is not whether a plaintiff will ultimately prevail, but whether the allegations are sufficient to state a cause of action upon which relief can be granted. See *Vernon v. Schuster*, 179 Ill. 2d 338, 344 (1997).

8. Moreover, a complaint should not be dismissed if it contains sufficient facts to set forth a legally recognized claim, even if the complaint is imperfectly stated or lacks precision.

STATEMENT OF FACTS

11. In or around 2018, Plaintiff Kyle Hadley entered into a verbal agreement with Defendant Brandon McGivern whereby Plaintiff would assume financial responsibility for maintaining and improving 6122 N. Winthrop Ave., Unit C, with the understanding that he would eventually purchase the property.

12. Over the course of the next five years, Plaintiff paid substantial sums toward the mortgage, utilities, and maintenance of the property. These payments were made regularly and with Defendant's knowledge and encouragement.

13. On or about March 3, 2023, Defendant accepted additional payments toward the outstanding mortgage and made no objection to Plaintiff's continued belief in the purchase agreement.

14. On or about March 18, 2025, Defendant sent Plaintiff a communication repudiating the existence of the purchase agreement and demanding that Plaintiff vacate the premises.

15. Subsequently, on or about April 1, 2025, Defendant filed a landlord-tenant eviction proceeding under Case No. 2025-M1-707919, which mirrored and contradicted the

parties' long-standing financial arrangement. Plaintiff contends that this parallel litigation is improper and intended to circumvent equitable claims pending in the instant matter.

ARGUMENT

16. Defendant alleges in his Motion to Strike that Plaintiff “fails to allege any definite terms regarding price, payment schedule, or closing date,” and that “the Complaint is devoid of any enforceable contractual obligations.” These characterizations are inaccurate.

17. In contrast, Plaintiff’s Complaint states at Paragraph 15: “Plaintiff was to pay \$1,000 monthly toward Defendant’s mortgage, to be credited against a total purchase price of \$150,000,” and at Paragraph 19: “The parties agreed that upon satisfaction of payments and continued occupancy, title would be formally transferred.”

18. These are not mere conclusions but clear, factual allegations based on the parties’ conduct and communications. Whether those terms satisfy contractual formalities is a question of law and fact—appropriate for summary judgment or trial, not a motion to strike.

19. Illinois law recognizes partial performance, improvements made, and reliance as sufficient bases to overcome the Statute of Frauds.

20. Further, Plaintiff’s reliance on the verbal agreement is not speculative. The Complaint attaches supporting emails and payment records. Defendant’s acceptance of financial contributions from Plaintiff over a multi-year period without objection affirms the mutual understanding of a sale.

21. Defendant’s Motion also omits acknowledgment of Plaintiff’s physical possession of the property, a critical factor that supports the equitable enforceability of an oral agreement under Illinois precedent.

22. Additionally, Defendant's filing of a concurrent eviction action while attempting to strike the equitable complaint demonstrates a calculated effort to obfuscate the true nature of the parties' relationship and avoid resolution on the merits.

23. The Complaint lays out in detail not only the agreed terms but also the context, history, and conduct supporting those terms. This is more than sufficient to overcome a 2-615 challenge.

24. Accordingly, Defendant's Motion to Strike should be denied in its entirety.

WHEREFORE, Plaintiff respectfully requests that this Court deny Defendant's Motion to Strike and grant any further relief deemed just and appropriate.

Respectfully submitted,

KYLE HADLEY

By: /s/Mason Cole

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