If this opinion indicates that it is "FOR PUBLICATION," it is subject to revision until final publication in the Michigan Appeals Reports.

STATE OF MICHIGAN

COURT OF APPEALS

TECTARA CORPORATION,

Plaintiff-Appellant,

v

ANGELA SMITH,

Defendant-Appellee.

UNPUBLISHED
January 12, 2026
1:19 PM

No. 372207
Wayne Circuit Court
LC No. 21-012685-CH

Before: BOONSTRA, P.J., and O'BRIEN and YOUNG, JJ.

PER CURIAM.

Plaintiff Tectara Corporation (Tectara) appeals by leave granted[1] the trial court's order granting summary disposition in favor of defendant Angela Smith.[2] We reverse and remand for further proceedings.

I. PERTINENT FACTS AND PROCEDURAL HISTORY

In 2020, Tectara and Smith entered into a purchase agreement in which Tectara agreed to purchase real property from Smith. The purchase price was $450,000 cash, with a $10,000 earnest money deposit. Tectara filed suit against Smith in 2021 for breach of the purchase agreement. Tectara alleged that it had paid Smith $250,000 towards the purchase of the property, that the purchase would not be completed because of Tectara's financial difficulties, that Smith was therefore required under the purchase agreement to return all funds paid toward the purchase except for the earnest money deposit, and that Smith had failed to do so. The purchase agreement

[1] *Tectara Corp v Smith*, unpublished order of the Court of Appeals, entered January 13, 2025 (Docket No. 372207).

[2] We note that counsel for Tectara, Mr. David K. Tillman, has repeatedly, in both the trial court and this Court, referred to Smith as "baby momma" and to her counsel as "baby daddy," even going so far as to define the terms for this Court. We regret that we even need to articulate that such references to the opposing party and opposing counsel in legal filings is neither appropriate nor amusing.

was signed by Terry Barnes on behalf of Tectara, and it indeed provided that, in the event of the buyer's (Tectara's) default, the seller's (Smith's) "remedies shall be limited to liquidated damages in the amount of the Earnest Money [Deposit] set forth in Section IV." Tectara and Smith further "agreed that such payments and things of value are liquidated damages and are [Smith's] sole and only remedy for [Tectara's] failure to perform the obligations of this Agreement."

While this action was proceeding in the trial court, Barnes and attorney Jan Laurence Sadick, along with several other persons and corporations, were named as defendants in a federal lawsuit alleging fraud, conspiracy, conversion, and numerous other claims. See *MBI Servs, LLC v Apex Distrib, LLC*, Civil Action No. 21-cv-20975. We need not recite the details of that litigation here; in relevant part, it involved a determination of whether Barnes had participated in a scheme to fraudulently obtain funds and then distribute those funds to a variety of destinations, including companies owned by Barnes. See *id.* at 1-4. One of those companies was Tectara, through which, allegedly, Barnes effectively "laundered" ill-gotten funds via the purchase of real estate.

Barnes was deposed in this matter and was asked a number of questions concerning the funds transferred to and from various corporate entities. To most of those questions, Barnes simply asserted his rights under the Fifth Amendment to the United States Constitution. Barnes did admit that he formed Tectara in 2020 for the purpose of purchasing residential property, and that he "worked" for Tectara, among other companies. He also stated that Sadick was Tectara's attorney in 2021 and that he had directed Sadick to transfer funds to Smith in January 2021. He stated that "Angela Smith was paid by Tectara via J.L. Sadick" in January 2021.

Smith moved for summary disposition under MCR 2.116(C)(10), arguing that Tectara was not the real party in interest in this action, because the evidence established that Tectara did not have any interest in any funds paid to Smith; rather, Smith asserted, she had been paid with funds converted by Barnes as part of his money-laundering scheme. Tectara attached to its response to Smith's motion an email from Smith to Barnes dated January 21, 2021, with the subject line bearing the address of the property that is the subject of the purchase agreement. The email stated in relevant part: "I [Smith] received the wire of $200,000[3] towards the purchase of the above mentioned property address. Once the remaining balance of $250,000 is sent, I will set a closing date and you with [sic] receive a warranty deed."

The trial court held a hearing on defendant's motion. At the hearing, the trial court held that Tectara had not established that it was the real party in interest, and it ordered that Tectara amend its complaint within 21 days to add the real party in interest.[4]

[3] By the time of the hearing on defendant's motion, the parties appear to have agreed that Smith was paid $250,000, notwithstanding Smith's reference to $200,000 in the email. Smith's counsel admitted that Smith had been paid $250,000 by wire transfer in January 2021, although he disputed that the transfer had come from Tectara. (See transcript of motion hearing, 12/2/24, 13, 31.)

[4] It does not appear that the complaint was ever amended, and the Wayne Circuit Court's electronic docketing system shows the case as closed.

This appeal by leave granted followed.

II. STANDARD OF REVIEW

We review de novo a trial court's decision on a motion for summary disposition. *Cannon Twp v Rockford Pub Sch*, 311 Mich App 403, 410; 875 NW2d 242 (2015). A motion for summary disposition asserting the real-party-in-interest defense is not the same as a motion brought under MCR 2.116(C)(5) (plaintiff lacks legal capacity to sue). *Cannon Twp*, 311 Mich App at 411 (citation omitted). "Accordingly, a motion for summary disposition asserting the real-party-in-interest defense more properly fits within MCR 2.116(C)(8) or MCR 2.116(C)(10), depending on the pleadings or other circumstances of the particular case. *Id.* (citation omitted). In this case, plaintiff moved for summary disposition under MCR 2.116(C)(10). A motion for summary disposition under MCR 2.116(C)(10) is properly granted when, viewed in the light most favorable to the nonmoving party, no genuine issue of material fact exists that the moving party is entitled to judgment as a matter of law. See *Maiden v Rozwood*, 461 Mich 109, 119-120; 597 NW2d 817 (1999).

"[T]he issue of whether a plaintiff is the real party in interest is a question of law that we review de novo." *Cannon Twp*, 311 Mich App at 411. We also review de novo issues of contract interpretation. *MK, Minor, by Next Friend Karen Knaak v Auburnfly, LLC*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 364577).

III. ANALYSIS

Tectara argues that the trial court erred by holding that it was not the real party in interest in this case. We agree.

An action must be prosecuted in the name of the real party in interest. See MCR 2.201(B); *Cannon Twp*, 311 Mich App at 410.

> A real party in interest is the one who is vested with the right of action on a given claim, although the beneficial interest may be in another. This standing doctrine recognizes that litigation should be begun only by a party having an interest that will assure sincere and vigorous advocacy. In addition, the doctrine protects a defendant from multiple lawsuits for the same cause of action. A defendant is not harmed provided the final judgment is a full, final, and conclusive adjudication of the rights in controversy that may be pleaded to bar any further suit instituted by any other party. [*Cannon Twp*, 403 Mich App at 412, quoting *Barclae v Zarb*, 300 Mich App 455, 483; 834 NW2d 100 (2013) (quotation marks and citations omitted).]

"The real-party-in-interest rule requires that the claim be prosecuted by the party who by the substantive law in question owns the claim asserted." *In re Beatrice Rottenberg Living Trust*, 300 Mich App 339, 356; 833 NW2d 384 (2013).

In this case, Tectara asserted a claim against Smith for breach of the purchase agreement. The parties to the purchase agreement were Tectara and Smith; further, the parties have not disputed that Tectara was an incorporated legal entity at all relevant times. The parties vested with

the right of action on a claim for breach of contract are the parties to the contract, their assignees, or in some cases third-party beneficiaries. See *Pontiac Police & Fire Retiree Prefunded Group Health & Ins Trust Bd of Trustees v City of Pontiac*, 309 Mich App 611, 623; 873 NW2d 783 (2015) (holding that the plaintiff board of trustees was not the real party in interest to assert breach-of-contract claims when it was not a party, an assignee of a party, or a third-party beneficiary to the contract at issue); see also *Miller-Davis Co v Aherns Const, Inc*, 495 Mich 161, 178; 848 NW2d 925 (2014). Therefore, Tectara is the real party in interest with respect to the claim asserted in this case, notwithstanding that the funds Tectara paid to Smith may have been derived from fraudulent conduct and may ultimately be determined to belong to and be properly payable to a nonparty (rather than Tectara). The trial court erred by deciding otherwise.

Smith argues that Barnes, rather than Tectara, was the source of the funds paid to Smith. Regardless of the source of the funds, however, Tectara was the party to the purchase agreement, and it therefore was the real party in interest. Moreover, although Barnes repeatedly asserted his Fifth Amendment rights during his deposition, he did testify that Sadick was Tectara's attorney, that Tectara had a bank account on January 20, 2021, and that Sadick "had money there to pay Angela Smith $250,000." Although Smith argues that Barnes refused to answer more detailed questions about the origin of the funds wired to Smith by Sadick, Barnes's answers, viewed in the light most favorable to the nonmoving party, establish a genuine issue of material fact on this issue, particularly when considered along with Smith's email acknowledging the wire transfer and stating that it was "towards the purchase" of the property described in the purchase agreement. *Maiden*, 461 Mich at 119-120.

Smith's argument that Tectara cannot establish an entitlement to damages fails for similar reasons. Although Tectara may ultimately not be entitled to receive or keep the funds it seeks to recoup from Smith, on this record it has established at least a genuine issue of material fact that it was damaged by Smith's breach of the purchase agreement, having paid $250,000 toward the purchase of property and currently possessing neither the property nor the funds that were paid. See *Miller-Davis*, 495 Mich at 178 ("A party asserting a breach of contract must establish by a preponderance of the evidence that (1) there was a contract (2) which the other party breached (3) thereby resulting in damages to the party claiming breach.").

We appreciate the trial court's quandary in adjudicating a claim for breach of contract in which Tectara seeks to recover funds that may have been fraudulently obtained while Barnes (who signed the purchase agreement for Tectara) refused to answer questions that could have clarified matters. However, we must conclude that the trial court erred by holding that Tectara was not the real party in interest, and that it accordingly erred by granting Smith's motion for summary disposition on those grounds. The simplest resolution of this matter on remand would be for any interested parties (who believe they have a claim to or interest in the funds paid to Smith) to intervene or otherwise be joined in this action; however, the action as it currently stands simply does not lack a real party in interest under the law. See MCR 2.201(B); *Cannon Twp*, 311 Mich App at 410.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Mark T. Boonstra
/s/ Colleen A. O'Brien
/s/ Adrienne N. Young