

STATE OF MICHIGAN
COURT OF APPEALS

AIDA KOVACI,

Plaintiff/Counterdefendant-Appellant,

v

MONI DEDVUKAJ, Personal Representative of the
ESTATE OF LJULJA DEDVUKAJ,

Defendant/Counterplaintiff-Appellee.

UNPUBLISHED

August 1, 2024

No. 365348

Macomb Circuit Court

LC No. 2022-240364-CZP

Before: LETICA, P.J., and BOONSTRA and MARIANI, JJ.

PER CURIAM.

The probate court granted summary disposition in favor of defendant/counterplaintiff Moni Dedvukaj, as the personal representative of the Estate of Ljulja Dedvukaj (the estate), on the parties’ cross-claims for quiet title. At the subsequent bench trial, the court found plaintiff/counterdefendant Aida Kovaci liable for conversion and awarded the estate treble damages. Kovaci now appeals by right. We affirm.

I. FACTUAL BACKGROUND

Kovaci and the decedent, Ljulja Dedvukaj, were close friends. They lived together from 1999 to 2011, first in a house in Hamtramck, and later in a house in Sterling Heights (the property), which was, initially, owned solely by Dedvukaj. In 2006, Dedvukaj executed and recorded a quitclaim deed (the 2006 deed) conveying the property to Dedvukaj and Kovaci as joint tenants with a right of survivorship. In 2011, Kovaci bought a condominium and moved out of the property. Dedvukaj had a quitclaim deed (the 2011 deed) prepared, which conveyed Kovaci’s interest in the property back to Dedvukaj as the sole owner, and asked Kovaci to sign it. Kovaci signed the deed as requested and delivered it to Dedvukaj. The 2011 deed is also signed by Dedvukaj and two witnesses, and it contains a notary block with Kovaci, Dedvukaj and the witnesses’ names, but it was never validly recorded.

In February 2021, while battling cancer, Dedvukaj gave Kovaci a check for \$143,466.61 (the check funds) and asked her to deposit the money into Kovaci's bank account.¹ According to Dedvukaj's nephew, Moni Dedvukaj (Moni), Dedvukaj believed she would be able to access the check funds more quickly if they were deposited into Kovaci's account. The women had an unwritten agreement that Kovaci would provide Dedvukaj with \$15,000 to \$20,000 a week for her expenses until the full amount of the check funds had been returned to Dedvukaj. Kovaci continually failed to make the payments and Dedvukaj had a difficult time getting ahold of her, but in March 2021, Kovaci gave Dedvukaj \$50,000.

Kovaci contends that shortly after depositing the \$143,466.61 check, she gave Dedvukaj \$3,000 of her own money because the check funds were not available yet. Kovaci also contends that, in March 2021, after she paid Dedvukaj \$50,000, Dedvukaj instructed Kovaci to send \$25,000 each to two of Dedvukaj's nephews, which she alleges she did, and to keep the remaining \$40,000 for herself. Regarding the remaining check funds, Kovaci testified: "I have nothing. The account is closed. Everything is gone. I paid my lawyer, I paid my stuff, that's it."

When Dedvukaj passed away in April 2021, Moni was made the personal representative of her estate. In June 2021, Kovaci brought a locksmith and a real estate agent to the property and had the locks changed. She told the locksmith that she owned the house and showed him the 2006 deed. Kovaci testified that while they were at the property, she did not go into the house, but the real estate agent went in and left a pair of sunglasses inside. Shortly thereafter, Moni visited the house and discovered that the locks had been changed.² After he was able to gain access to the house, he discovered that several important documents were missing, including an envelope containing \$14,000 in cash for Dedvukaj's funeral expenses (the funeral cash) and the 2011 deed.³ Moni found a copy of the 2006 deed and two pairs of sunglasses on the kitchen countertop. In July 2021, Moni filed an affidavit of lost deed in the probate court, attaching to it a copy of the 2011 deed. Moni attested that the 2011 deed had been filed with the City of Sterling Heights but not with the Macomb County Register of Deeds.

Kovaci sued the estate for quiet title and for slander of title. The estate counterclaimed for quiet title and for conversion of the check funds and the funeral cash. The probate court granted

¹ The record does not make clear whether Kovaci was the sole owner of the bank account or if it was a joint account with Dedvukaj, but further clarification is not necessary for purposes of resolving this appeal.

² Moni testified that he did not go to Dedvukaj's house for several weeks after her death because Dedvukaj had contracted Covid-19 shortly before her death and he was afraid of being exposed to the virus.

³ Moni testified that he was aware of the envelope of cash because Dedvukaj showed it to him the year prior and explained that the money was for her funeral. He also testified that every few months, in the course of caring for Dedvukaj, he reorganized the file that was kept on the kitchen countertop and contained her important materials, including the funeral cash and the 2011 deed. In his affidavit of lost deed, Moni attested that he last saw the 2011 deed in March 2021 when Dedvukaj asked him to read it to her. A close friend of Dedvukaj's also testified that Dedvukaj had set aside \$14,000 for funeral expenses.

partial summary disposition under MCR 2.116(C)(10) in favor of the estate on the issue of quiet title, finding that Kovaci conveyed her interest in the property to Dedvukaj through the 2011 deed. A bench trial was held on the estate's counterclaim for conversion, during which Kovaci, Moni, and Dedvukaj's close friend testified. The probate court found that Kovaci "was not a credible witness" and found that the other witnesses were credible. In its ruling, the court stated that "[t]here's no question in my mind that [Kovaci] committed perjury today on the stand." The probate court found Kovaci liable for converting \$93,466.61 of the check funds and the \$14,000 in funeral cash, totaling \$107,466.61, and awarded treble damages, costs, and attorney fees pursuant to MCL 600.2919a. A civil judgment was entered against Kovaci in the amount of \$462,635.44. This appeal followed.

II. QUIET TITLE

According to Kovaci, the probate court erred by granting summary disposition to the estate on the parties' cross-claims for quiet title because genuine issues of material fact exist as to whether Kovaci intended to convey her interest in the property to Dedvukaj. We disagree.

This Court reviews de novo a trial court's decision on a motion for summary disposition. *Kandil-Elsayed v F & E Oil, Inc*, 512 Mich 95, 109; 1 NW3d 44 (2023). "A motion under MCR 2.116(C)(10) tests the factual sufficiency of the complaint Where the proffered evidence fails to establish a genuine issue regarding any material fact, the moving party is entitled to judgment as a matter of law." *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999). "[W]hen reviewing a motion for summary disposition brought under MCR 2.116(C)(10), a court must examine the documentary evidence presented and, drawing all reasonable inferences in favor of the nonmoving party, determine whether a genuine issue of material fact exists." *Dextrom v Wexford County*, 287 Mich App 406, 415-416; 789 NW2d 211 (2010). If the court determines that a genuine issue of material fact exists, then the motion must be denied and the issues are left to a fact-finder to resolve at a trial. *Id.* at 430. "A genuine issue of material fact exists when the record, giving the benefit of reasonable doubt to the opposing party, leaves open an issue upon which reasonable minds might differ." *West v Gen Motors Corp*, 469 Mich 177, 183; 665 NW2d 468 (2003).

A deed takes effect at the time of delivery, and not at the time of its date, its execution, or the time it is recorded, and recording is not necessary for a deed to be valid or effective between the parties. *Ligon v Detroit*, 276 Mich App 120, 128; 739 NW2d 900 (2007). "The purpose of the delivery requirement is to show the grantor's intent to convey the property described in the deed." *Energetics, Ltd v Whitmill*, 442 Mich 38, 53; 497 NW2d 497 (1993). "The whole object is to indicate the grantor's intent to give effect to the instrument." *Resh v Fox*, 365 Mich 288, 291; 112 NW2d 486 (1961). "Physical delivery to the grantee raises a presumption of intent to pass title[,] but the presumption may be rebutted by evidence, including evidence regarding the subsequent conduct of the parties. *Id.* at 291-292.

Kovaci does not dispute that she signed and delivered the 2011 deed to Dedvukaj, giving rise to the presumption of intent to convey her interest to Dedvukaj. Instead, Kovaci argues that the presumption is rebutted by the subsequent conduct of the parties. Kovaci relies on her testimony that there was no notary and no witnesses present when she signed the 2011 deed,

arguing that this demonstrates a lack of intent.⁴ But it is “well settled” that “an instrument of conveyance is good as between the parties even though not executed with such formalities as to permit it to be recorded.” *Irvine v Irvine*, 337 Mich 344, 352; 60 NW2d 298 (1953). Thus, Kovaci’s contention that the deed lacked the requirements necessary for the deed to be recorded fails to rebut the presumption she intended to convey her interest. Kovaci also points to the fact that the 2011 deed was never validly recorded, but again this argument is contrary to well-settled law. See *Lignon*, 276 Mich App at 128 (“As between the parties, an otherwise-conforming deed is valid even if it is not recorded.”). Kovaci’s reliance on her testimony that Dedvukaj told her she wanted Kovaci to have the property also misses the mark because it is the grantor’s intent that is relevant, not the grantee’s. *Resh*, 365 Mich at 291; see also *In re Rudell Estate*, 286 Mich App 391, 409; 780 NW2d 884 (2009) (“[I]ntentions are manifested by words and actions, and not a secret intent.”) (quotation marks omitted). The trial court correctly found that there were no genuine questions of material fact as to whether Kovaci conveyed her interest in the property to Dedvukaj. Accordingly, we affirm the court’s grant of summary disposition under MCR 2.116(C)(10) in favor of the estate.

III. CONVERSION CLAIM

Kovaci argues that (1) there was insufficient evidence to support the probate court’s findings that she converted \$107,466.61 of Dedvukaj’s funds and that treble damages should be awarded for same, and (2) the court reversibly erred by failing to find the facts specifically, as required by MCR 2.517.⁵ We disagree.

We review a trial court’s findings of fact at a bench trial for clear error and review its conclusions of law de novo. *Knight Enterprises v RPF Oil Co*, 299 Mich App 275, 279; 829 NW2d 345 (2013). “A finding is clearly erroneous if there is no evidentiary support for it or if this Court is left with a definite and firm conviction that a mistake has been made.” *Chelsea Investment Group, LLC v City of Chelsea*, 288 Mich App 239, 251; 792 NW2d 781 (2010). We “give deference to the trial court’s superior ability to judge the credibility of the witnesses who

⁴ The estate assumes for purposes of argument that the 2011 deed was not validly notarized or witnessed; for purposes of this appeal, we make the same assumption.

⁵ Kovaci was found liable for her actions with respect to Dedvukaj’s funds under MCL 600.2919a, which allows for the award of “3 times the amount of actual damages sustained, plus costs and reasonable attorney fees” to “[a] person damaged as a result of,” among other things, “[a]nother person’s stealing or embezzling property or converting property to the other person’s own use.” See also, e.g., *Lawsuit Fin, LLC v Curry*, 261 Mich App 579, 591; 683 NW2d 233 (2004) (explaining that, under the common law, an action for conversion of money requires that “the defendant must have obtained the money without the owner’s consent to the creation of a debtor-creditor relationship and must have had an obligation to return the specific money entrusted to his care”) (quotation marks omitted); *Head v Phillips Camper Sales & Rental, Inc*, 234 Mich App 94, 111 n 3; 593 NW2d 595 (1999) (noting that “Michigan courts have held that a plaintiff may maintain an action for conversion where the defendant cashes a check as the plaintiff’s agent or bailor and retains an amount to which he is not entitled”). Except as addressed in this opinion, Kovaci does not challenge on appeal her liability under MCL 600.2919a.

appeared before it.” *Amb's v Kalamazoo Co Rd Comm*, 255 Mich App 637, 652; 662 NW2d 424 (2003) (quotation marks and citation omitted).

Kovaci argues that the probate court erred by finding her liable for converting \$93,466.61 of the check funds because Kovaci’s testimony that she gave Dedvukaj \$3,000 of her own money and gave two of Dedvukaj’s nephews \$50,000 from the check funds was uncontested. Thus, Kovaci argues, the evidence did not support a finding that she could have converted any more than \$40,466.61, which accounts for the \$40,000 Dedvukaj allegedly told Kovaci to keep. But Kovaci’s accounting of the check funds is based solely on her own testimony, which the probate court found was not credible. And the record belies Kovaci’s claim that her testimony was uncontested. Moni, whose testimony the probate court found credible, testified about several conversations he had with Dedvukaj shortly before her death which indicated that she expected Kovaci to return to her the full amount of the check funds. He also testified that Dedvukaj had twelve nieces and nephews, that it would be unlike Dedvukaj to give \$50,000 to only two of her nephews, and that, because Moni was Dedvukaj’s primary caregiver, Dedvukaj would have told Moni if she instructed Kovaci to send the nephews part of the check funds, but Dedvukaj did not. Given the deference we give to the trial court’s “superior ability to judge the credibility of the witnesses who appeared before it,” *Amb's*, 255 Mich App at 652, we see no clear error in the trial court’s finding. Likewise, we see we no clear error in the trial court’s finding that Kovaci converted the \$14,000 in funeral cash. Kovaci argues that the estate presented only “vague” evidence of the existence of the funeral cash, but Moni and Dedvukaj’s close friend both testified to its existence and the probate court found that testimony credible. Kovaci argues that her testimony that she did not go into the house when she had the locks changed in June 2021 was uncontested, but, as discussed, the probate court found her testimony not credible. We see no clear error in these credibility assessments. See *id.* And the estate presented ample circumstantial evidence to support the probate court’s conclusion that only Kovaci had access to the house at the time the funeral cash was taken.

Next, Kovaci argues that there was insufficient evidence to support the probate court’s award of treble damages under MCL 600.2919a(1)(a). MCL 600.2919a(1)(a) allows for the award of treble damages, costs, and attorney fees to a person who is damaged as result of “[a]nother person’s stealing or embezzling property or converting property to the other person’s own use.” “Own use” is defined broadly and “requires a showing that the defendant employed the converted property for some purpose personal to the defendant’s interests, even if that purpose is not the object’s ordinarily intended purpose.” *Aroma Wines & Equip, Inc v Columbian Distribution Servs, Inc*, 497 Mich 337, 358-359; 871 NW2d 136 (2015). We see no clear error in the probate court’s finding that \$93,466.61 of the check funds were converted for Kovaci’s “own use.” Kovaci admitted that she used check funds from the account to “pa[y] my lawyer” and “my stuff” and that “[e]verything is gone.” And as discussed, while Kovaci claimed that she gave Dedvukaj \$3,000 of her own money and sent \$50,000 of the check funds to two of Dedvukaj’s nephews in furtherance of Dedvukaj’s interests, the trial court did not clearly err in deeming that testimony not credible. Likewise, we see no clear error in the probate court’s finding that the funeral cash should be included in its award of treble damages, given the circumstantial evidence that Kovaci permanently dispossessed Dedvukaj of the \$14,000 without any right or permission to do so, and the probate court’s determination that Kovaci’s denial of taking the cash was not credible.

Lastly, Kovaci argues that reversal and remand for a new trial is necessary because the trial court failed to find the facts specifically, as required by MCR 2.517(A), with regard to its finding

that Kovaci is liable for conversion and with regard to the statement that Kovaci committed perjury.⁶ “Findings of fact regarding matters contested at a bench trial are sufficient if they are brief, definite and pertinent, and it appears that the trial court was aware of the issues in the case and correctly applied the law, and where appellate review would not be facilitated by requiring further explanation.” *Triple E Produce Corp v Mastronardi Produce, Ltd*, 209 Mich App 165, 176; 530 NW2d 772 (1995) (cleaned up). The trial court’s findings are brief but, after reviewing the record, we are satisfied that they are sufficiently definite and pertinent, and that the court was well aware of issues in the case and correctly applied the law. And appellate review, in this case, would not be facilitated by requiring further explanation. We see no basis for reversal or remand.

We affirm.

/s/ Anica Letica
/s/ Mark T. Boonstra
/s/ Philip P. Mariani

⁶ With regard to the probate court’s statement that Kovaci committed perjury, we note that the court made the statement in the course of explaining its broader finding that Kovaci’s testimony was not credible, and the particular statement itself was neither necessary to that broader finding nor consequential to the merits of the estate’s conversion claim. Kovaci requests that this Court reverse and remand with instructions to retract the statement from the record, but does not make an argument as to the legal basis for granting the relief requested. “A party may not simply announce a position and leave it to this Court to make the party’s arguments and search for authority to support the party’s position.” *Seifeddine v Jaber*, 327 Mich App 514, 519; 934 NW2d 64 (2019).