STATE OF MICHIGAN

COURT OF APPEALS

NICK L. MARTINES,

Plaintiff/Counter-Defendant/Appellee,

v

GERALD M. ZAMBOROWSKI,

Defendant/Counter-Plaintiff/Third-Party Plaintiff-Appellant,

and

JOSEPH C. FOURNIER and FUTURE BUILDERS, INC., d/b/a RED CARPET KEIM BUILDERS,

Defendants,

and

THE TOWNSHIP OF CLAY,

Third-Party Defendant.

UNPUBLISHED
October 28, 1997

No. 197333
St. Clair Circuit Court
LC No. 94-002233 CK

Before: Saad, P.J., and O'Connell and M. J. Matuzak*, JJ.

PER CURIAM.

Defendant/counter-plaintiff/third-party plaintiff appeals as of right from the trial court's entry of judgment ordering the specific performance of the sale of defendant's property to plaintiff/counter-defendant after a jury found that defendant breached his contract with plaintiff for the sale of the property. We affirm.[1]

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* Circuit judge, sitting on the Court of Appeals by assignment.

In May, 1996, a jury trial was held on plaintiff's claim that defendant breached a contract for the sale of defendant's property located at 6520 South Channel on Harsen's Island to plaintiff, and on defendant's counterclaim that plaintiff tortiously interfered with defendant's contract for the sale of the same parcel to another buyer. The jury found that an enforceable contract for the sale of defendant's property existed between plaintiff and defendant, and that defendant breached that contract. The counterclaim was dismissed. After dismissing the jury, the trial court ordered the specific performance of the sale of defendant's property to plaintiff.[2]

Defendant raises several issues on appeal. Of these issues, the only issue we find properly preserved and not abandoned for appellate review concerns whether the trial court properly made findings of fact and conclusions of law in rendering its decision on the issue of specific performance. We decline to review the remaining issues raised by defendant because they are unpreserved or abandoned on appeal for lack of argument or authoritative support.[3] See e.g., *Froling v Carpenter*, 203 Mich App 368, 373; 512 NW2d 6 (1993); *Magee v Magee*, 218 Mich App 158, 161; 553 NW2d 363 (1996). In any event, were we to consider these issues, we would find no error.[4]

Defendant argues on appeal that the trial court erred in adopting the "advisory" jury's decision without making separate and specific findings of fact and conclusions of law. This Court disagrees. First, we note that defendant wrongly suggests that the jury's role in this case was merely advisory. The record clearly indicates that the jury was impaneled not as an advisory jury, but, rather, to decide the relevant issues of fact. Second, our review of the record indicates that the court properly rendered findings of fact after the jury returned its verdict and that it relied upon the relevant law in doing so. In addition, at defendant's motion for a new trial (or "mistrial" as it was characterized by defendant below), the court supplemented its findings in accordance with MCR 2.611(A)(2)(c). The court's findings indicated that the court was aware of the issue to be decided (specific performance), and that it correctly applied the law. See *Triple E Produce Corp v Mastronardi Produce, LTD*, 209 Mich App 165, 171; 530 NW2d 772 (1995). Therefore, we conclude that the court's findings were not clearly erroneous, and defendant's claim fails. *Id.*

Affirmed.

/s/ Henry William Saad
/s/ Peter D. O'Connell
/s/ Michael J. Matuzak

[1] Plaintiff also filed suit against defendants Fournier and Future Builders, Inc. However, those claims were dismissed. Defendant filed a third-party suit against the Township of Clay seeking injunctive relief to prevent the demolition of the structure situated on the subject parcel. The trial court granted the injunction, and that order is not at issue here.

[2] The record indicates that the trial was bifurcated at the request and agreement of the parties.

[3] We recognize that defendant has brought this appeal in propria persona and that he wrote the brief himself. However, there is simply no excuse for failing to cite authority for an issue on appeal or for failing to address an issue that has been properly raised in a statement of the questions involved.

[4] Were we to address defendant's claims, we would make the following conclusions. First, defendant's claim that the jury's verdict was against the great weight of the evidence is waived because defendant did not timely move for a new trial on this basis. *DeGroot v Barber*, 198 Mich App 48, 54; 497 NW2d 530 (1993). Second, defendant's assertion that the trial court erred in failing to grant defendant's motion for a new trial on the basis that the court improperly communicated with the jury is abandoned on appeal because defendant's brief on appeal does not cite any authority suggesting that the trial judge's communication with the jury was improper. As such, this Court declines to consider the issue. *Cramer v Metropolitan Savings Ass'n (Am Op)*, 136 Mich App 387, 400; 357 NW2d 51 (1984) ("A party may not leave it to the Court to search for authority to sustain or reject a position"). We would point out, however, that since the jury had been dismissed at the time of the communication, the court did not improperly conduct ex parte communication with a deliberating jury. See *Szopko v Kinsman Marine Transit Co*, 96 Mich App 64, 66; 292 NW2d 486 (1980). Third, defendant's claim that the trial court abused its discretion in instructing the jury as to the requirements that must be met for the formation of a valid contract is waived because defendant failed to object to the instructions in the court below. MCR 2.516(C); *Janda v Detroit*, 175 Mich App 120, 126; 437 NW2d 326 (1989). In any case, we note that defendant does not provide any argument in the body of his brief to support this allegation of error. Finally, defendant's claim that the case should be assigned to a different judge on remand is waived because defendant failed to make a motion to disqualify the judge below, MCR 2.003(A); *In re Schemltzer*, 175 Mich App 666, 673; 438 NW2d 866 (1989), and because defendant failed to cite any authority in support of this argument. *Cramer, supra; Magee v Magee*, 218 Mich App 158, 161; 553 NW2d 363 (1996).