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IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
May 12, 2026 Session

LINDA RICKER v. CLARK BLUMENSTEIN

Appeal from the Chancery Court for Greene County
No. 2021-CV-77 Douglas T. Jenkins, Chancellor

No. E2025-00915-COA-R3-CV

This appeal concerns whether a homeowner diagnosed with Alzheimer's disease, now deceased, lacked capacity or was unduly influenced to execute a quitclaim deed transferring his house to himself and his nephew as joint tenants with right of survivorship. The homeowner's sister—who served as his attorney-in-fact and was the sole beneficiary of his will—filed suit challenging the transaction. After a bench trial, the trial court found that the deed was validly executed. However, the trial court struck the survivorship language from the deed, concluding that the homeowner did not understand that specific element. On appeal, the homeowner's sister seeks, among other relief, the total invalidation of the deed. The nephew argues that the trial court should have enforced the deed as written. We agree with the nephew and modify the trial court's judgment insofar as it removed the survivorship language. In all other respects, we affirm.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Affirmed as Modified; Case Remanded

KRISTI M. DAVIS, J., delivered the opinion of the Court, in which THOMAS R. FRIERSON, II, and W. NEAL MCBRAYER, JJ., joined.

Donald K. Vowell, Knoxville, Tennessee, for the appellant, Linda Ricker.

Alex A. Chesnut, Greeneville, Tennessee, for the appellee, Clark Orson Blumenstein.

OPINION

BACKGROUND

Marshall Ricker ("Decedent") was the brother of Linda Ricker ("Plaintiff") and the uncle of Clark Blumenstein ("Defendant"). Plaintiff is Defendant's mother. In his lifetime,

Decedent was an architect. As he grew older, Decedent required extensive daily care, which Plaintiff initially provided. Defendant, who lived in the State of Washington, communicated with Decedent periodically by telephone and email.

On January 6, 2019, Decedent sent a detailed, lengthy email to Defendant's father stating that he wanted Defendant to move to Tennessee. Under the arrangement Decedent set out in his email, Defendant would live with him, assist him as needed, and receive $2,000 per month in pay. Decedent referenced his and Defendant's shared interest in woodworking and design and expressed his concern for Defendant's welfare and future. Although Defendant would later relocate to Tennessee, he did not do so immediately. In April 2019, Decedent executed a last will and testament designating Plaintiff as his sole heir and executrix. In September 2019, Decedent executed a power of attorney naming Plaintiff as his attorney-in-fact.

On September 28, 2019, Decedent was admitted to Holston Manor, a nursing home in upper East Tennessee. He was diagnosed with major health conditions including Alzheimer's disease and Parkinson's disease. Staff records described him as being at times "unable to participate in [review of systems] due to cognitive impairment." Other notes reflected disorientation, "flight of ideas," poor judgment, and rambling or unorganized thoughts. Decedent engaged in inappropriate sexual behavior, such as kissing a roommate and getting on top of another resident. He also grabbed caregivers and yelled at people. On many occasions, he required total assistance with feeding.

Amid Decedent's health struggles, he nevertheless engaged in certain financial transactions. On February 13, 2020, Defendant accompanied Decedent to Heritage Bank. At that time, Decedent paid off the mortgage on his house. Some other time that month, Decedent added Defendant to his bill-paying account. Meanwhile, Plaintiff remained attorney-in-fact.

On March 13, 2020, Decedent executed a quitclaim deed ("the Deed") conveying his house to himself and Defendant as joint tenants with right of survivorship. Defendant had chosen a title company and an attorney based out of Franklin, Tennessee, to prepare the document. On the day the Deed was executed, Defendant was in Washington and spoke with Decedent by telephone as the Deed was signed at the nursing home. A notary was present to witness the Deed's execution.

That same month, Defendant moved to Tennessee. In the meantime, Decedent continued to battle serious health problems. By late June 2020, Decedent entered a coma and was hospitalized, although he regained consciousness at one point and was able to communicate intermittently. On July 4, 2020, Decedent died. On March 8, 2021, Plaintiff sued Defendant in the Greene County Chancery Court ("the trial court"), seeking to invalidate the Deed based on lack of capacity, undue influence, and financial exploitation. Plaintiff also requested relief under the Tennessee Adult Protection Act (the "TAPA").

On January 28, 2025, this matter was tried. Plaintiff and Defendant were the only witnesses to testify. Plaintiff testified first. Plaintiff stated that she only found out about the payoff of Decedent's home mortgage shortly before he died and learned of the Deed shortly before or very soon after Decedent's death. Plaintiff also discovered that Defendant had withdrawn approximately $27,000 of Decedent's funds. Before Decedent entered the nursing home, Plaintiff assisted him with his daily needs, such as administering his medication and helping him up after falls. Decedent was a large man, and Plaintiff injured herself while caring for him. Plaintiff subsequently sought medical treatment in Mexico for her own health issues. Plaintiff acknowledged that she had encouraged Defendant to move to Tennessee and sent him supportive text messages telling him that he was "in the driver's seat." Plaintiff also acknowledged that Decedent added Defendant to his bill-paying account, and she did not object at the time. In October 2019, Decedent was diagnosed with Alzheimer's disease. According to Plaintiff, Decedent was "in-and-out a little bit" in terms of his cognition by early March of 2020. Nevertheless, Plaintiff responded "[o]h, yeah" when asked if she could still have an intelligent conversation with him. Plaintiff clarified further that Decedent "was not just out of it."

Defendant testified next. Defendant stated that he reconnected with Decedent years before over their common interest in woodworking. With respect to the Deed, Defendant said that both Plaintiff and Decedent suggested it provide for joint tenancy with right of survivorship between he and Decedent. Defendant stated that he had the Deed prepared and then coordinated its execution remotely on March 13, 2020, while he was still in Washington. Regarding his uncle's desire that he move to Tennessee, Defendant testified that Decedent wanted him there "yesterday" and that he was very impatient about it. In February 2020, Decedent added Defendant to his bill-paying account. On February 13, 2020, Defendant accompanied Decedent to Heritage Community Bank, where Decedent paid off the mortgage on his house after speaking with the banker. Defendant explained that Decedent did this in order to sever all remaining ties with his ex-wife. As for Decedent's cognition, Defendant said that Decedent was "cogent . . . during the times we were talking business." Defendant acknowledged that Decedent had bad days too. He explained that the $27,000 he withdrew from Decedent's funds in late June 2020 was reimbursement for moving-related expenses. Pressed on his role with Decedent and whether he bypassed Plaintiff on decision-making, Defendant testified:

> Q. And then [Plaintiff] specifically told you, you were not the caretaker for [Decedent].
>
> A. That's false because the email titled, Clark and Kathryn's New Horizons, spells out me getting a $2,000 salary to be his caretaker. That's the month and two -- the year and two months before I actually moved here.
>
> Q. January 27th, 2020, [Plaintiff] -- I'm skipping over now, halfway down. It's important to remember that you are not a caretaker and that you'll just be taking [Decedent] on short outings, or you'll have a trained person with you to do the heavy lifting. You are his nephew/companion.

So you were not the caretaker.

A. Okay. Well, if we want to get into semantics, I guess at that point she said I wasn't the caretaker. But the year before, in the email, Clark and Kathryn's New Horizons, where they talked about giving me a $2,000 salary to be his caretaker -- I don't know how I'm not his caretaker if I moved all the way out here and was paid with a house, paid with the move --

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Q. Now, we allege that you waited until your mother was sick with these (indiscernible) and things and out of town to do the fraud. [*sic*] What do you say to that?

A. That I waited?

Q. Yes. Did you send her any documents saying that money has been transferred -- here's a copy of the check. Here's the deed. You didn't send her anything like that. You have no --

A. I don't send physical copies. We're family. I called her on the phone and told her what happened.

Q. Yes. You didn't send her any copies, even though --

A. I did send her copies.

Q. -- she was power of attorney. Is that correct, sir?

A. It was never asked for. I told her the deed was done, and she didn't ask for a copy because she knew what the deed was. It was joint tenancy with right of survivorship. It was --

Q. So in all this banking -- in all this banking, in all these deeds and everything, you have no proof you ever shipped her a copy of it for her to review, even though she was power of attorney?

A. Of course not. She never asked.

Q. But she wouldn't be able to ask if she didn't know the documents were being --

A. She knew.

On June 4, 2025, the trial court entered its final order. The trial court found that Plaintiff—not Defendant—had been Decedent's caretaker. The trial court found further that Defendant moved from Washington to assist Decedent while Plaintiff was away receiving medical treatment. The trial court characterized Decedent's medical condition as "very reduced." As to the execution of the Deed, the trial court determined that Decedent understood the transaction but did not understand the survivorship clause specifically. The trial court reasoned that "[a] deed creating a joint tenancy with a right of survivorship is a very technical deed, and it appears that the decedent did not receive any independent legal advice regarding the transaction."

Thus, the trial court struck the survivorship language from the Deed and ruled that the Deed created a joint tenancy between Decedent and Defendant without right of survivorship. Consequently, the trial court concluded that Decedent's one-half interest in the property passed to Plaintiff as per his will. In addition, the trial court found that Decedent's mortgage payoff of approximately $185,000 was proper and that $12,000 of Decedent's funds used by Defendant for moving expenses constituted part of a "quid pro quo" to cover Defendant's move from Washington to Tennessee. Plaintiff and Defendant each filed timely notices of appeal to this Court.

ISSUES

Plaintiff raises several issues on appeal, which we restate and consolidate as follows:

1. Whether the trial court erred in finding that Decedent had the necessary mental capacity to execute the Deed.

2. Whether the trial court erred in finding that the Deed was not procured by undue influence.

3. Whether the trial court erred in declining to invalidate the Deed altogether and instead reforming it to strike the survivorship language.

4. Whether the trial court erred in its findings regarding the mortgage payoff and the withdrawal of approximately $27,000.

5. Whether the trial court erred in declining to find that Defendant violated the TAPA and in declining to award relief thereunder.

Defendant raises a separate issue of whether the trial court erred in reforming the Deed in any respect rather than simply enforcing it as written.

STANDARD OF REVIEW

Because this is an appeal from a bench trial, we review the trial court's factual findings de novo, presuming their correctness unless the evidence preponderates otherwise. *Boote v. Shivers*, 198 S.W.3d 732, 740 (Tenn. Ct. App. 2005); Tenn. R. App. P. 13(d). "[F]or the evidence to preponderate against a trial court's finding of fact, it must support another finding of fact with greater convincing effect." *Boote*, 198 S.W.3d at 741. The presumption of correctness does not apply to the trial court's conclusions of law. *Id*.

"When the resolution of the issues in a case depends upon the truthfulness of witnesses, the trial judge who has the opportunity to observe the manner and demeanor of the witnesses while testifying is in a far better position than this Court to decide those

issues." *Edmunds v. Delta Partners, L.L.C.*, 403 S.W.3d 812, 824 (Tenn. Ct. App. 2012). "If the trial court's factual determinations are based on its assessment of witness credibility, this Court will not reevaluate that assessment absent clear and convincing evidence to the contrary." *Id*. (quoting *Franklin Cnty. Bd. of Educ. v. Crabtree*, 337 S.W.3d 808, 811 (Tenn. Ct. App. 2010)).

DISCUSSION

I. Decedent's capacity

Plaintiff argues that Decedent lacked the necessary mental capacity to execute the Deed. In support of her argument, Plaintiff points to the medical records showing Decedent's decline around the time of the Deed's execution in March 2020. Plaintiff also specifically points out a March 11, 2020 record noting that Decedent "[a]ppears to be worsening with worsening sexual behaviors." Defendant, for his part, argues that Plaintiff acknowledged Decedent's capacity when she testified to having had intelligent conversations with him in March 2020. Defendant notes that a diagnosis of Alzheimer's disease is not sufficient on its own to prove incapacity. Defendant testified at trial that his uncle consciously and independently sought to execute the Deed as part of his overall plan for Defendant to move to Tennessee. Regarding the legal consequences of a grantor's incapacity, this Court has explained:

> A deed is valid only if it is the product of the grantor's conscious, voluntary act. Thus, a deed is void if, at the time of its execution, the grantor was mentally unbalanced, without intelligent comprehension of the act being performed, and incapable of transacting. *See Bright v. Bright*, 729 S.W.2d 106, 109 (Tenn. Ct. App. 1986); *Brown v. Weik*, 725 S.W.2d 938, 944 (Tenn. Ct. App. 1983); *Hinton v. Robinson*, 51 Tenn. App. 1, 9, 364 S.W.2d 97, 100 (1962). A party seeking to rescind a conveyance because of mental incapacity has the burden of proof. *See Williamson v. Upchurch*, 768 S.W.2d 265, 269 (Tenn. Ct. App. 1988).

Fell v. Rambo, 36 S.W.3d 837, 846 (Tenn. Ct. App. 2000).

In an instructive case concerning whether a 98-year-old uncle's deed to his niece should have been set aside for lack of capacity or undue influence, this Court stated:

> The Children characterize the Uncle as weak, frail, and easily influenced. In their view, he was completely at the mercy of the Niece. They believe she more or less kidnaped him from his home, and took him to a lawyer's office that she knew would help her in her evil plan to take the Uncle's property. While there, the thought process goes, she told the lawyer what was to be done and he, in total disregard of the Uncle's limitations,

drew up the deed and watched while the Uncle signed it. The problem with this argument is that it completely disregards the factual findings of the trial court. The trial court found that the Uncle was proud and independent. The trial court also found that the Uncle and the Niece announced their intentions the night before the transfer was made. The court further found that the Uncle had enough presence of mind to know that the deed from Victoria would be helpful; therefore, he took it, in its "blue cover," to the lawyer's office. The court opined that the Uncle wanted to honor the wishes of his sister, Victoria—from whom he had acquired the land for less than fair market value—that the Niece have the land. The court found that the Uncle was knowledgeable and conversant concerning the right-of-way and the $5,000 in expenses he had incurred. With respect to the credibility determinations implicit in the trial court's findings, there is no "clear and convincing evidence to the contrary." *Wells* [*v. Tennessee Bd. of Regents*], 9 S.W.3d [779,] 783 [(Tenn. 1999)]. In evaluating the evidence in this case, we are hampered by the absence of the deposition testimony of two key witnesses, Mr. Cockett and Dr. Whitlock. In the absence of these depositions, we must presume that the trial court's findings with respect to the testimony of these two witnesses are correct. *In re M.L.D.*, 182 S.W.3d [890,] 894 [(Tenn. Ct. App. 2005)].

While we are on the critical subject of the Uncle'[s] competence, it will be helpful to put the Children's argument in perspective. The thrust of their argument is that their father, the Uncle, could not have been competent to execute the deed because he was later diagnosed with dementia that must have existed at the time he signed the deed. Numerous appellate opinions can be found which have affirmed a trial court's finding that a person was competent to execute a document despite pre-existing dementia. *See, e.g., Fell v. Rambo*, 36 S.W.3d 837, 846–47 (Tenn. Ct. App. 2000) (a reviewing court will not second guess trial court for rejecting testimony of expert who saw the person after the fact and testified that her dementia prevented the person from being lucid); *Dickson v. Long*, No. M2008-00279-COA-R3-CV, 2009 WL 961784 at *3 (Tenn. Ct. App. M.S., filed April 8, 2009) (evidence of dementia does not prove incompetence with regard to a particular transaction). The trial court was correct, also, that a person does not have to exercise "judgment and discretion" to be competent; all the law requires is that a person understand the "nature, extent, character, and effect of the transaction." *Rawlings v. John Hancock Mut. Life Ins. Co.*, 78 S.W.3d 291, 297 (Tenn. Ct. App. 2001). Whether or not a person has that capacity is a question entrusted to the trier of fact. *Dickson*, 2009 WL 961784 at *3. As we have stated, the trial court in this case determined that the Uncle was competent to sign the deed and there is not clear or convincing evidence to disturb that finding.

Reece v. Valois, No. E2011-02615-COA-R3-CV, 2012 WL 4465345, at *8 (Tenn. Ct. App. Sept. 27, 2012).

Reece sets out clearly that an individual is not necessarily incapable of conducting a business transaction just because he or she has been diagnosed with Alzheimer's disease or otherwise suffers from dementia. Instead, the analysis focuses on the individual's capacity specifically at the time of the transaction. This is necessarily a fact-intensive inquiry. Here, the trial court found that Decedent understood the execution of the Deed. That is not to say Decedent was healthy. Plaintiff is correct in that the nursing home records reveal that Decedent was beset with multiple serious health problems. The records also show that Decedent, while afflicted with Alzheimer's disease, engaged in some highly inappropriate conduct at the nursing home. Even still, the records do not prove that Decedent was incapable of understanding the execution of the Deed at the time it occurred. And, as we pointed out in *Reece*, a lack of judgment or discretion does not necessarily equate to incompetence. *See id*.

Moreover, the trial court heard Plaintiff's and Defendant's testimony. Defendant was clear that, notwithstanding Decedent's serious health problems, Decedent knew what he was doing when he executed the Deed. Plaintiff acknowledged in her testimony that she was still having intelligent conversations with Decedent in March 2020. The trial court thus had an evidentiary basis on which to find that Decedent understood the nature, extent, character, and effect of the Deed, even with his myriad health problems. Insofar as the trial court's findings hinged on its implicit credibility determinations, those credibility determinations are subject to deference, absent clear and convincing evidence to the contrary. *See Kautz v. Berberich*, No. E2019-00796-COA-R3-CV, 2021 WL 1034987, at *7 (Tenn. Ct. App. Mar. 18, 2021). There is no clear and convincing evidence in this record to overturn the trial court's implicit credibility determinations made in its final order, nor does the evidence preponderate against the trial court's factual findings. We affirm the trial court's finding that Decedent had sufficient mental capacity to execute the Deed.

II. Undue influence

Plaintiff next asserts that a confidential relationship existed between Defendant and Decedent because Defendant effectively assumed the role of Decedent's caretaker around January 2020. She points to the evidence of Decedent's severe decline in the months leading up to his death, as well as the fact that he did not receive independent legal advice. According to Plaintiff, these facts constituted suspicious circumstances arising to undue influence, and the burden should shift to Defendant to prove that the transaction was fair. Defendant responds by asserting that Plaintiff was Decedent's caretaker, noting she was Decedent's attorney-in-fact and his primary decision-maker. Defendant denies having exercised any control over Decedent.

Influence itself over a grantor is not sufficient to set aside a deed; rather, "it is the undue influence thereof which is prohibited." *Johnson-Murray v. Burns*, 525 S.W.3d 625, 634 (Tenn. Ct. App. 2017). Closely related to undue influence is the concept of a confidential relationship, defined as "any relationship which gives one person dominion and control over another." *Id.* (quoting *Childress v. Currie*, 74 S.W.3d 324, 328 (Tenn. 2002)). A confidential relationship may arise where "there is some legal connection between the dominant party and the weaker party, such as when a dominant party is granted a power of attorney." *Id.* at 635. Confidential relationships may also arise from family or other relationships, although "proof of 'family and other relationships' alone does not establish a confidential relationship." *Id.* (quoting *Matlock v. Simpson*, 902 S.W.2d 384, 385–86 (Tenn. 1995)). "The dominant rule in Tennessee and elsewhere is that the existence of a confidential relationship, followed by a transaction wherein the dominant party receives a benefit from the other party, gives rise to a presumption of undue influence that may be rebutted only by clear and convincing evidence of the fairness of the transaction." *Ellis v. Duggan*, 644 S.W.3d 85, 114 (Tenn. Ct. App. 2021) (quoting *Matlock*, 902 S.W.2d at 386) (internal quotations omitted).

The burden of establishing a confidential relationship is on the party alleging its existence. *Parham v. Walker*, 568 S.W.2d 622, 624 (Tenn. Ct. App. 1978). Once a confidential relationship is established and the presumption of undue influence arises, the burden shifts to the dominant party to establish that the transaction at issue was fair. *Parish v. Kemp*, 179 S.W.3d 524, 531 (Tenn. Ct. App. 2005). Fairness must be proven by clear and convincing evidence. *Id.* Just as undue influence may be established through the existence of "suspicious circumstances[,]" *Ellis*, 644 S.W.3d at 115, the presumption of undue influence may be rebutted by showing the absence of suspicious circumstances. *Id*. Relevant circumstances include:

> (1) the decedent's advanced age and/or physical or mental deterioration; (2) the dominant party's active involvement in the transactions at issue; (3) secrecy concerning the transaction's existence; (4) the lack of independent advice; (5) the decedent's illiteracy or blindness; (6) the unjust or unnatural nature of the transaction; (7) the decedent being in an emotionally distraught state; (8) discrepancies between the transaction and the decedent's expressed intentions; and (9) fraud or duress directed toward the decedent.

Id. (quoting *In re Est. of Lipscomb*, No. W2018-01935-COA-R3-CV, 2020 WL 1549596, at *11 (Tenn. Ct. App. Apr. 1, 2020)).

As was the case in the previous issue, this issue is fact-intensive. Here, the trial court found that Plaintiff was Decedent's caretaker, not Defendant. At trial, the parties disputed who Decedent's caretaker was at the relevant times. In the end, however, Plaintiff was Decedent's attorney-in-fact and traditionally led the way in caring for Decedent. The

fact that Defendant physically helped Decedent implement the latter's wishes in his final months did not automatically transform Defendant and Decedent's ordinary familial relationship into a confidential relationship. The record supports the trial court's finding that Plaintiff was Decedent's caretaker and further supports the trial court declining to find a confidential relationship between Decedent and Defendant.

Beyond the lack of a confidential relationship, Plaintiff failed to prove that Defendant exercised undue influence over Decedent. Certainly, Decedent was elderly and in very poor health at the time of the underlying events. Nonetheless, that is only one factor in the analysis. Defendant testified strenuously at trial that Decedent knew what he was doing in executing the Deed. Defendant also testified to Decedent's eagerness that he should move quickly to Tennessee so the two could strengthen their family ties and help one another in their respective areas of need. In Defendant's account, Decedent inviting him to Tennessee and having the Deed executed were purposeful, rational, and independent decisions, and Defendant's role was one of facilitation, not control. Nothing about the Deed's execution, as Defendant testified, reflects any coercive or unnatural action against Decedent on his part. Plaintiff's position, by contrast, is that Defendant essentially coerced his elderly uncle into giving him his property. However, which version to accept from the contrasting testimony and narratives hinges in large measure on the credibility of the witnesses. The trial court saw and heard the witnesses testify. It is evident from the trial court's final judgment that it rejected Plaintiff's theory as to Defendant's motives and actions toward Decedent. Based on this record, we have no grounds to overturn the trial court's implicit credibility determinations, and the evidence does not preponderate against the trial court's factual findings. We affirm the trial court's finding of no undue influence by Defendant.

III. Reformation of the Deed

Plaintiff argues that the trial court should have invalidated the Deed altogether rather than reform it to strike the survivorship language because Decedent's condition at the time of the Deed's execution was such that he did not understand the transaction. Plaintiff cites Tennessee authority stating that courts may not modify an unambiguous instrument without a finding of mistake or fraud. In the alternative, Plaintiff contends that the Deed must be set aside as a failed gift because Defendant did not prove the requisite donative intent by clear and convincing evidence. Defendant responds that the trial court should have enforced the Deed as written—including the survivorship language—because it was unambiguous and the trial court found its execution valid. Defendant argues that reformation was improper as no fraud, accident, or mutual mistake was found. In essence, both parties challenge the trial court's reformation of the Deed, albeit to different ends.

The elements of reformation are set out in *Sikora v. Vanderploeg*, 212 S.W.3d 277 (Tenn. Ct. App. 2006). In *Sikora*, this Court explained:

> The judicial alteration of the provisions of a written agreement is an equitable remedy known as "reformation." The basic purpose of reformation is to make the contract conform to the real intention of the parties. It is driven by a respect for the parties' intent and gives effect to the terms mutually agreed upon by the parties. Because the law strongly favors the validity of written instruments, a person seeking to reform a written contract must do more than prove a mistake by a preponderance of the evidence. Instead, the evidence of mistake must be clear and convincing.
>
> An important subcategory of mistake is mistake in the expression, or integration, of the agreement. A mistake in expression occurs where one or both parties to a written contract erroneously believe that the contract embodies the agreement that both parties intended it to express. In such cases, the courts may adjust the provisions of the written contract to make it express the true agreement reached by the parties.
>
> In order to obtain reformation on the basis of mistake in expression, a party must present clear and convincing evidence that: (1) the parties reached a prior agreement regarding some aspect of the bargain; (2) they intended the prior agreement to be included in the written contract; (3) the written contract materially differs from the prior agreement; and (4) the variation between the prior agreement and the written contract is not the result of gross negligence on the part of the party seeking reformation. Reformation is not automatically barred simply because one of the parties denies that there was an antecedent agreement or claims that the mistake was not mutual.
>
> As long as the party seeking reformation establishes the elements of a mistake in expression, any discrepancy between the parties' prior agreement and their written contract is presumed to be the result of a mutual mistake (unless, of course, there is evidence of fraud). . . .

Id. at 287–88 (footnotes, citations and internal quotation marks omitted).

The trial court found that Decedent had the necessary mental capacity to execute the Deed. The trial court also rejected Plaintiff's claim of undue influence. We affirm these findings. In view of this, we discern no basis for the trial court's decision to strike the survivorship language from the Deed. Neither party asked for the Deed to be reformed. The trial court made no findings of mutual mistake. The trial court simply found that Decedent did not understand the survivorship language because it was too technical. However, having determined that Decedent understood the transaction and entered it freely, there were no grounds for attempting to subdivide or parse Decedent's particular understandings of specific clauses in the Deed. Additionally, since the Deed was a valid conveyance, Plaintiff's failed gift argument is without merit. In short, the Deed must be

enforced as written, including the survivorship language. Therefore, we modify the trial court's judgment to remove its reformation of the Deed.

IV. Financial transactions

Apart from the Deed, Plaintiff argues that Defendant engaged in other financial transactions that suggest undue influence. Plaintiff cites Defendant as having pushed Decedent into the bank in a wheelchair on February 13, 2020 where Decedent paid off the mortgage on his house and Defendant's withdrawal of $27,000 of Decedent's funds days before Decedent's death. Plaintiff contends that the trial court erred in finding the mortgage payoff proper and in declining to impose liability on Defendant for $12,000 of the withdrawn funds. Defendant responds that Decedent paid off the mortgage on his own initiative to remove Decedent's former wife's name from the loan.

As with most of the issues raised by these parties on appeal, this issue implicates the trial court's factual findings and credibility determinations. The trial court implicitly credited Defendant's testimony in which he stated that Decedent made independent financial decisions, including the mortgage payoff. Likewise, the trial court implicitly credited Defendant's testimony in which he explained that the $27,000 of Decedent's funds he withdrew went toward legitimate expenses. Once again, there is no clear and convincing evidence in this record to overturn the trial court's credibility determinations, and the evidence does not preponderate against the trial court's factual findings. We affirm the trial court's findings with respect to the financial transactions in controversy.

V. Tennessee Adult Protection Act

Plaintiff argues that Defendant financially exploited Decedent, a vulnerable adult, in contravention of the TAPA. Plaintiff asks for compensatory damages, punitive damages, and attorney's fees. In response, Defendant reiterates his position that he only acted in accordance with Decedent's wishes.

For Plaintiff to succeed on her TAPA claim, she would have to prove that Defendant exploited Decedent. *See* Tenn. Code Ann. § 71-6-120. This goes to Plaintiff's core theory of the case—that Defendant exercised undue influence over the ailing Decedent to enrich himself. However, the trial court found as relevant that the Deed was validly executed, that the mortgage payoff was proper, and that Defendant's withdrawal of funds was for a legitimate purpose. The trial court found no exploitative acts by Defendant. The evidence does not preponderate against the trial court's factual findings, and we leave the trial court's implicit credibility determinations undisturbed. Thus, Plaintiff's TAPA claim fails, and she is not entitled to relief under the act. In sum, except for the trial court's reformation of the Deed—which we modify by removing that portion of its judgment—we affirm.

CONCLUSION

The judgment of the Chancery Court for Greene County is hereby affirmed as modified. Costs on appeal are assessed to the appellant, Linda Ricker, for which execution may issue if necessary.

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KRISTI M. DAVIS, JUDGE