

IN THE INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

FILED

September 25, 2026

**SANDRA CARDONA and JAIME CARDONA,
Defendants Below, Petitioners**

ASHLEY N. DEEM, CHIEF DEPUTY CLERK
INTERMEDIATE COURT OF APPEALS
OF WEST VIRGINIA

v.) No. 25-ICA-495 (Cir. Ct. Berkeley Cnty. Case No. CC-02-2024-C-69)

**THOMAS GAMINO,
Plaintiff Below, Respondent**

MEMORANDUM DECISION

Petitioners Sandra Cardona and Jaime Cardona (the “Cardonas”) appeal the Circuit Court of Berkeley County’s November 21, 2025, order granting summary judgment to Respondent Thomas Gamino as to liability on his breach of contract claim and granting summary judgment to the Cardonas regarding Mr. Gamino’s fraud and constructive fraud claims. Mr. Gamino filed a response.¹ The Cardonas filed a reply.

This Court has jurisdiction over this appeal pursuant to West Virginia Code § 51-11-4 (2026). After considering the parties’ arguments, the record on appeal, and the applicable law, this Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision affirming the circuit court’s order is appropriate under Rule 21 of the West Virginia Rules of Appellate Procedure.

In 2022, Mr. Gamino listed his Martinsburg, West Virginia property for sale through Weichert Realtors. On December 14, 2022, the Cardonas executed a Residential Sales Contract, Contingency Addendum and a Home Inspection Contingency Addendum (collectively, the “Contract”) for the purchase of the property for \$760,000. The Home Inspection Contingency Addendum provided the Cardonas with the right to have the property inspected and either identify deficiencies to Mr. Gamino in writing or void the contract. That addendum further provided Mr. Gamino the option to remedy any identified deficiencies. If he failed to do so, the Cardonas had the option to void the contract. The Cardonas conducted an initial walkthrough with their real estate agent, Vimi Walker, prior to executing the documents and reported no concerns. On December 20, 2022, the parties

¹ The Cardonas are represented by Michael T. Logsdon II, Esq., and AnnaMarie E. Miller, Esq. Mr. Gamino is represented by David M. Jecklin, Esq., and Aaron C. Amore, Esq.

executed a Home Inspection Contingency Removal Addendum confirming that no repairs were required.

A closing was scheduled for January 31, 2023. The Cardonas performed a final walkthrough that morning but did not attend the closing and did not purchase the property. Although they later alleged that defects were observed during the walkthrough, they did not provide Mr. Gamino with any notice of deficiencies, request repairs, or complete a walkthrough inspection form.

On February 1, 2024, Mr. Gamino initiated this action against the Cardonas alleging breach of contract and fraud or constructive fraud. After answering the complaint, the Cardonas sought and obtained leave to file a third-party complaint against Ms. Walker and her real estate agency.

In deposition, Mr. Cardona testified that he has extensive real estate experience, had never requested Spanish language real estate documents, and understood that the contract documents imposed duties and responsibilities. He acknowledged signing the Inspection Removal Addendum stating that no repairs were required and admitted that he did not notify Mr. Gamino of any alleged defects after the final walkthrough, explaining that he “[didn’t] want the house.” Mrs. Cardona testified that she does not recall requesting repairs and agreed that, had Mr. Gamino been notified of the alleged issues and agreed to repair them, they would have proceeded to closing.

Ms. Walker testified that the Cardonas did not request Spanish language documents and that shortly after returning to her office to prepare the walkthrough report, she was informed that the Cardonas no longer wished to purchase the property. The Cardonas’ daughter, Sandra Maria Cardona Meda, testified that during the walkthrough she told Ms. Walker her parents did not want the house, and the Cardonas then left without further discussion.

Mr. Gamino and the Cardonas filed cross motions for summary judgment and responses. In its November 21, 2025, order granting in part, and denying in part, those motions, the circuit court found that the parties were competent to contract, the sale of the property was lawful subject matter, valuable consideration was exchanged through the \$760,000 purchase price, and the Cardonas knowingly executed the Contract and related contingency addendums, and agreed to the responsibilities imposed by those documents. Thus, the circuit court determined that no genuine issue of material fact existed as to contract formation and denied the Cardonas’ motion for summary judgment.

The circuit court further concluded that no material factual dispute existed regarding breach. It found that the Cardonas understood that contracts impose obligations; that the Contract required them to notify Mr. Gamino of any alleged deficiencies and provide an

opportunity to cure; that they were aware of these obligations at the time of the final walkthrough; that they decided they no longer wanted the property during the walkthrough; and that they never notified Mr. Gamino of alleged deficiencies. Further, the circuit court found it undisputed that the Cardonas failed to attend closing and did not purchase the property. Based on these findings, the circuit court concluded that the Cardonas breached the contract as a matter of law and granted Mr. Gamino's motion for summary judgment. Additionally, the circuit court granted the Cardonas' motion for summary judgment as to Mr. Gamino's fraud and constructive fraud claims. This appeal of the November 21, 2025, order followed.²

Our review of a circuit court's entry of summary judgment is de novo. Syl. Pt. 1, *Painter v. Peavy*, 192 W. Va. 189, 451 S.E.2d 755 (1994).

The Cardonas first assert that the order does not include sufficient factual findings and legal analysis required for meaningful appellate review. They argue that the circuit court did not address the Cardonas' contract formation arguments and ignored the conflicting testimony central to the breach determination. We disagree. Generally, "a circuit court's order granting summary judgment must set out factual findings sufficient to permit meaningful appellate review. Findings of fact, by necessity, include those facts which the circuit court finds relevant, determinative of the issues and undisputed." Syl. Pt. 3, *Fayette Cnty. Nat'l Bank v. Lilly*, 199 W. Va. 349, 484 S.E.2d 232 (1997), *overruled on other grounds by*, *Sostaric v. Marshall*, 234 W. Va. 449, 766 S.E.2d 396 (2014). Further, the findings should be "substantial enough to allow this Court to make an informed judgment on the propriety of the lower court's actions." *Ayersman v. W. Va. Div. of Env't Prot.*, 208 W. Va. 544, 546, 542 S.E.2d 58, 60 (2000). The order identifies the undisputed facts necessary for resolving contract formation and breach: that the Cardonas had prior real estate experience; knowingly executed the Contract; understood that these documents imposed duties and responsibilities; performed a home inspection; performed both the initial and final walkthroughs; did not provide Mr. Gamino any notice of alleged deficiencies; did not request repairs; ultimately refused to attend closing; and ultimately did not purchase the property.³ These findings are supported by the deposition testimony

² The third-party claims remain pending, but the circuit court ordered a stay on those claims pending the outcome of this appeal. The third-party claims are not implicated in this appeal. Additionally, the parties do not appeal the portion of the order granting summary judgment on Mr. Gamino's fraud and constructive fraud claims.

³ The Cardonas also argue that the circuit court's analysis on breach is unclear. They assert that the circuit court based its breach analysis on the terms of the Home Inspection Contingency Addendum, rather than the purchase contract itself. We disagree. While the circuit court explained that the undisputed facts demonstrated that the Cardonas failed to document any alleged deficiencies in the property pursuant to the terms of the Home

of Jaime and Sandra Cardona, Ms. Walker, and Sandra Maria Cardona Meda. The order therefore provides an adequate factual and legal basis for meaningful appellate review. Accordingly, we reject the Cardonas' contention that the order lacks sufficient findings and analysis.

The Cardonas next contend that summary judgment was improper because the circuit court relied on factual determinations that should have been reserved for a jury. They assert that the record contains evidence of a lack of mutual assent because they do not read English, the Contract was not translated, and the effect of the earnest-money deposit and default provision was not explained. They also argue that alleged conflicts in testimony regarding the final walkthrough create genuine disputes of material fact. We disagree. None of the facts material to contract formation or breach are actually in dispute, and even if disputed, they would not negate the existence of a valid contract or cure the breach.

Under West Virginia law, contract formation requires competent parties, legal subject matter, valuable consideration, and mutual assent. Syl. Pt. 3, *Dan Ryan Builders, Inc. v. Nelson*, 230 W. Va. 281, 737 S.E.2d 550 (2012). Mutual assent may be demonstrated by direct evidence of the agreement or conduct showing the parties' intention to contract. See *Bailey v. Sewell Coal Co.*, 190 W. Va. 138, 140-41, 437 S.E.2d 448, 450-51 (1993). West Virginia law is equally clear that a party's failure to read or understand a contract does not relieve that party of contractual obligations absent fraud, misrepresentation, duress, or similar extraordinary circumstances. *New v. GameStop, Inc.*, 232 W. Va. 564, 578-79, 753 S.E.2d 62, 76-77 (2013).

The undisputed testimony establishes that the Cardonas voluntarily executed the Contract; understood they were assuming contractual duties; participated in the inspection process; had previously completed numerous real estate transactions without requesting Spanish language documents; and knowingly relied on their agent rather than reviewing the Contract themselves. The record contains no evidence of fraud, coercion, misrepresentation, or any attempt by Mr. Gamino to prevent them from requesting translation or clarification.

Likewise, any inconsistencies in the testimony concerning the final walkthrough and what alleged defects were observed do not create a dispute material to breach. The Cardonas admit that they did not notify Mr. Gamino of any alleged defects, did not request repairs, and did not invoke any contractual mechanism to allow cure. Mr. Cardona testified that he "[didn't] want the house" and chose not to close. Even viewing the evidence in the light most favorable to the Cardonas, their unilateral refusal to proceed rather than any

Inspection Contingency Addendum, the circuit court clearly based its finding of breach on the Cardonas' failure to complete the purchase of the property.

request to cure alleged defects caused the failure to close. Therefore, the circuit court did not err when it found there were no genuine issues of material fact.

For the foregoing reasons, we find no error in the circuit court's determination that a valid contract was formed and that the Cardonas breached the Contract as a matter of law. Accordingly, we affirm the circuit court's November 21, 2025, order.

Affirmed.

ISSUED: September 25, 2026

CONCURRED IN BY:

Chief Judge Daniel W. Greear
Judge Charles O. Lorensen
Judge S. Ryan White