

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION



Pat the Manager, LLC,)
)
Plaintiff) Case No. 2020 L 12697
)
v.)
) Judge Patrick J. Sherlock
Chance the Rapper, LLC, et al.,)
Defendant)
)

ORDER

This case is before the Court on defendants' motion for summary judgment. The issue presented is accurately described as legally straightforward and based upon few facts. Defendants have made the motion easy by conceding, for purposes of the motion only, that plaintiff's allegations are true.

The facts which guide this decision and which are, for purposes of this motion, undisputed: Pat the Manager ("PTM") agreed with Chance the Rapper ("CTR") that CTR would pay PTM a commission of 15% of the net revenue during the term of its employ and thereafter for a three-year period.¹

¹ CTR actually disputes such a agreement was ever entered and further argues that plaintiff is attempting to impose an "implied term" to the contract. Plaintiff disputes this characterization and, but for defendant's limited concession, the motion would be denied out of hand. However, the Court will determine the legal issue presented with the understanding that CTR is not precluded from taking inconsistent factual positions in support of his case at a later point in time.

ANALYSIS

CTR argues that the statute of frauds bars PTM's claim for three years of post-termination commissions. The statute of frauds states, in pertinent part:

No action shall be brought to charge any person upon any contract . . . for a longer term than one year, unless such contract or some memorandum or note thereof shall be in writing, and signed by the party to be charged therewith, or some other person thereunto by him lawfully authorized in writing, signed by such party.

740 ILCS 80/2.

The parties do not dispute that the agreement between PTM and CTR was an unwritten contract. Therefore, unless some exception to the statute of frauds applies, PTM's claim for post-termination commissions is barred.

PTM asserts one exception: full performance. The statute does not "explicitly provide that full performance by one party operates to take the oral contract out of the Statute of Frauds; however, case law fully supports this result." *Meyer v. Logue*, 100 Ill. App. 3d 1039, 1044 (1st Dist. 1981); see also *Mapes v. Kalva Corp.*, 68 Ill. App. 3d 362, 386 N.E.2d 148, 24 Ill. Dec. 944 (1979) (executed oral employment contract withstands Statute of Frauds defense, especially where all that remains to be done by the other party is payment of money); *Thomas v. Moore*, 55 Ill. App. 3d 907, 370 N.E.2d 809, 12 Ill. Dec. 898 (1977) (oral contract for sale of real estate is removed from Statute of Frauds where purchaser pays full consideration, takes possession of the land, or makes valuable improvements thereon); *Lund v. E.D. Etnyre & Co.*, 103 Ill. App. 2d 158, 242 N.E.2d 611 (1968) (where one party has fully performed oral agreement, other party is estopped to rely on the Statute of Frauds, even though the oral contract violates the statute).

1. Custom and Usage.

CTR argues that PTM cannot succeed in avoiding the statute of frauds based upon the "industry standard" of having an implied 3-year post-termination commission provision. "The courts will take judicial notice of general customs and usages provided the same are legal and otherwise possess the requisites necessary to their recognition and application by the court. Conversely courts will not take judicial notice of a custom * * * which contravenes an established rule of law, * * *." We conclude, as the Appellate Court did, that the customs pleaded could not render nugatory the provision of the Statute of Frauds." *Ozier v. Haines*, 411 Ill. 160, 166 (1952).

The Court dispenses with this straw-man argument quickly. PTM is not arguing that "industry standard" is sufficient to avoid the statute of frauds. Instead, PTM argues that his oral agreement with CTR was that it was entitled to a 3-year post-termination commission and that agreement is consistent with the industry standard.

2. Full Performance-Reliance.

CTR argues that in order for PTM to succeed in defeating application of the statute of frauds based upon full performance, PTM must establish it acted in reasonable reliance on an express agreement between the parties. For some reasons, CTR cites two federal cases for this proposition – that statement of law is correct and fully supported by Illinois decisional law. *American College of Surgeons v. Lumbermens Mutual Casualty Co.*, 142 Ill. App. 3d 680, 698-99, 491 N.E.2d 1179, 96 Ill. Dec. 719 (1st Dist. 1986) ("The rationale of the full performance doctrine is that when one party, in reasonable reliance on the contract, performs all of its obligations, it would be unfair to allow the other party to

accept the benefits under the contract but to avoid its reciprocal obligations by asserting the Statute of Frauds."); *Meyer v. Logue*, 100 Ill. App. 3d at 1043-44 (same).

CTR argues that PTM could not have performed in reliance on any contract providing for three years of post-termination commissions because there was no such express contract. Conversely, PTM submits evidence that it and CTR "discussed that the agreement included post-termination commissions and payments." These factual disputes defeat summary judgment on the reliance issue. Illinois courts generally reliance is a question of fact to be determined by the trier of fact, not by the trial court as a matter of law. See *Cwikla v. Sheir*, 345 Ill. App. 3d 23, 31 (1st Dist. 2003).

3. Full Payment for Performance.

CTR argues that PTM has been fully compensated for his performance and that an unwritten right to additional compensation after performance is a violation of the statute of frauds, citing *Roti v. Roti*, 364 Ill. App. 3d 191 (1st Dist. 2006)². *Roti* supports the notion that Illinois courts have concluded that employment contracts usually do not qualify for the performance exception to the Frauds Act. That is "Normal employment contracts, such as the one here, do not involve this kind of performance. To allow the fact that an employee worked and was paid for part of the duration of the contract to act as such a bar would make the relevant provision of the Statute of Frauds meaningless. Any contract where the employee had started work and received a paycheck would be protected from the application of the statute." Citing *Mariani v. School Directors of District 40*, 154 Ill. App. 3d 404, 407, 506 N.E.2d 981, 107 Ill. Dec. 90 (1987).

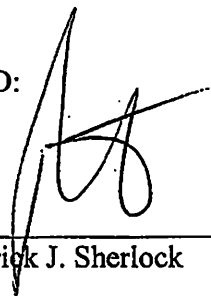
² The Court allows PTM's sur-reply. CTR could have, and should have, raised *Roti* in its opening brief. The Court denies CTR's request to file a sur-sur-reply.

PTM is not an employee of CTR. Rather, PTM performed specific services with the contemplation (if he is to be believed) that he was receiving partial compensation now with further compensation for that same work for a continuing period of three years. The rule of law is that full performance on the part of one of the parties (in this case PTM) to an oral agreement bars application of the Frauds Act by the other (i.e. CTR). There is no requirement that the full performance by both parties take place within one year. "The rationale of the full performance doctrine is that when one party, in reasonable reliance on the contract, performs all of its obligations, it would be unfair to allow the other party to accept the benefits under the contact but to avoid its reciprocal obligations by asserting the Statute of Frauds." *American College of Surgeons v. Lumbermens Mutual Casualty Co.*, 142 Ill. App. 3d at 700. Illinois courts have uniformly followed the rule "that when one party to a contract completes his performance, the one-year provision of the statute does not prevent enforcement of the promises of the other party." *American College of Surgeons*, 142 Ill. App. 3d at 700. See also *Noesges v. Servicemaster Co.*, 233 Ill. App. 3d 158 (2d Dist. 1992).

For the reasons stated above, the Court denies defendants' motion for partial summary judgment.

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ENTERED:



Judge Patrick J. Sherlock

ENTERED
Judge Patrick Sherlock-1942
MAR 26 2025
MARIYANA T. SPYROPOULOS
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL