Circuit Court for Cecil County
Case No.: C-07-CV-19-000108

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1846

September Term, 2021

CHARLESTOWN MANOR, LLC

v.

KIMBERLEE LLOYD

Tang,
Albright,
Woodward, Patrick, L.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Woodward, J.

Filed: February 26, 2024

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

On January 15, 2014, Charlestown Land, LLC ("Charlestown Land") conveyed to Charlestown Manor, LLC ("Charlestown Manor"), appellant, certain land, designated as "park area", along the North East river in Charlestown Manor, a neighborhood bordering Charlestown, MD. On July 2, 2014, Kimberlee Lloyd, appellee, acquired all residual lands located in Charlestown Manor owned by Mark Joseph Connor and Sara E. Connor (collectively, "the Connors"), purportedly including a .424-acre parcel of land ("the Parcel") that had, at one time, been part of the park area. On April 1, 2019, Ms. Lloyd filed a complaint against Charlestown Manor to quiet title to the Parcel in the Circuit Court for Cecil County. After a trial on August 25-26, 2021, the trial court determined that Ms. Lloyd was the sole owner of the Parcel and enjoined Charlestown Manor from asserting any claim of title to that land.

Charlestown Manor presents two questions for our review, which we have rephrased:[1]

1. Did the trial court err by construing the deeds in the chain of title to conclude that Ms. Lloyd was the sole owner of the Parcel?

2. Did the trial court err by failing to hold that the Parcel could not have been excepted from the conveyance of the park area because the Parcel had never been approved by Cecil County in a subdivision planning process?

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[1] Charlestown Manor originally phrased its questions as:

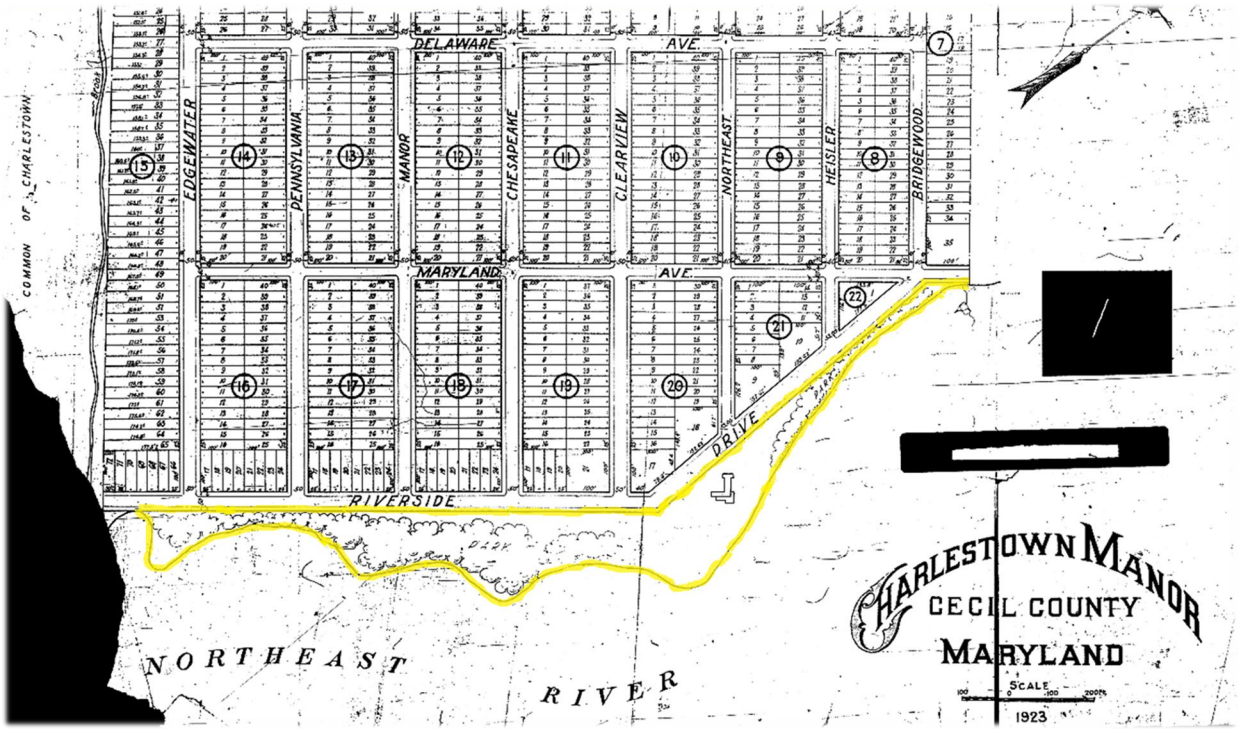
1. Does the conveyance in fee simple of a particular description of land control, in so far as what was granted in it, where there is no limitation or exception expressed in that deed, but where there is a general reference to another deed as the source of title that expresses an exception of lands conveyed?

2. Even if there were an exception referenced in a deed to another deed regarding the source of title, and that were to be construed as what had been intended to be conveyed her [sic], can that exception be given effect where, to effect it, would otherwise violate the law?

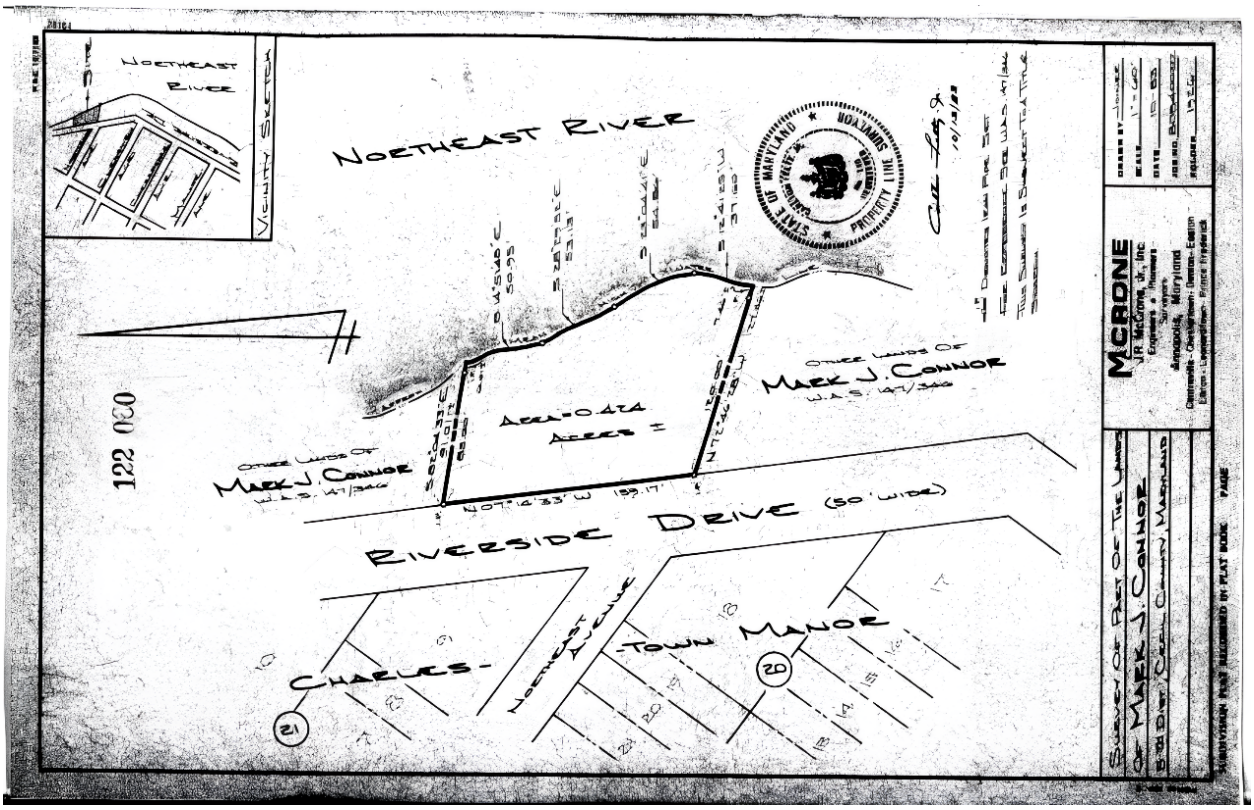
For the following reasons, we affirm.

BACKGROUND

By deed dated January 15, 1964, William B. Calvert conveyed to the Connors 200 acres of land, more or less, in Charlestown Manor, which included a 4.9-acre area between the east side of Riverside Drive and the low water line of the North East River. The 4.9-acre area was designated as "park" on a plat of Charlestown Manor created in 1923 and recorded among the Land Records of Cecil County in Plat Book S.R.A. No. 1, Folio 3, as follows:



On October 13, 1983, a survey was prepared by J.R. McCrone, Jr., Inc. of the Parcel located between the east side of Riverside Drive and the low water line of the North East River. The Parcel is located in the middle of the 4.9-acre park area, and the McCrone survey thereof is set forth as follows:



The relevant chain of title and history of the land in question involves five deeds. In the first deed, dated June 25, 1984 (the "June 1984 deed"), the Connors transferred the park area, without the Parcel, to Charlestown Manor Homeowner's Association ("Charlestown Manor HOA"). Specifically, the deed stated:

> WITNESSETH, that for and in consideration of the sum of ONE DOLLAR ($1.00) in hand paid, the receipt whereof is hereby acknowledged, the said Grantors do hereby grant and convey unto the said Grantee, its successors and assigns, in fee simple, forever, **all that lot or parcel of land located in the Fifth Election District of Cecil County, Maryland between the east side of Riverside Drive and the low water line of the North East River, designated as park area of Charlestown Manor on a plat dated 1923 and recorded among the Land Records of Cecil County in Plat Book S.R.A. No. 1, Folio 3, containing, by estimation, 4.9 acres, more or less.**
>
> BEING part of the land which was granted and conveyed unto [the Connors] by Deed of William B. Calvert dated January [15], 1964 and

recorded among the Land Records of Cecil County, Maryland at Liber W.A.S. No. 147, Folio 346.

SAVING AND EXCEPTING THEREFROM AND THEREOUT 0.424 acres of land, more particularly shown and described in a survey prepared by J.R. McCrone, Jr., Inc. dated 10/13/1983, a copy of which is attached hereto and incorporated by reference herein, and marked Exhibit A. Said piece or parcel of land having never been intended to have been conveyed or dedicated to the common use of the owners of Charlestown Manor.

TOGETHER with the buildings and improvements thereon, and all and singular the rights, ways, appurtenances and advantages thereunto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, in common with all owners, tenants and occupants of the land of the subdivision known as Charlestown Manor, it being intended that said land be used for bathing, boating and such other uses and purposes as are commonly enjoyed by owners of beach-front property.

(Emphasis added.) The June 1984 deed was recorded in the Land Records of Cecil County in Liber N.D.S. No. 122, Folio 058.

In the second deed, dated October 12, 1984 (the "October 1984 deed"), Charlestown Manor HOA transferred the 4.476-acre park area back to the Connors. The deed stated, in part:

WHEREAS, it is the desire of the original incorporator herein, Mark Joseph Connor, to return the property originally intended to be conveyed to Charlestown Manor Homeowner's Association back to the original owners, Mark Joseph Connor and Sara E. Connor, his wife, and clear up any defect which may have been created.

NOW THEREFORE, THIS DEED WITNESSETH, that for and in consideration of the sum of ONE DOLLAR ($1.00) in hand paid, the receipt and sufficiency of which is hereby acknowledged, the said Charlestown Manor Homeowner's Association does hereby grant and convey unto the said Mark Joseph Connor and Sara E. Connor, his wife, their assigns, the survivors of them, and the heirs and assigns [for] said survivors, as tenants by the entireties, in fee simple, forever, all that lot or parcel of land located in the Fifth Election District of Cecil County, Maryland, between the east

side of Riverside Drive and the low water line of the North East River, designated as park area of Charlestown Manor on a plat dated 1923 and recorded among the Land Records of Cecil County in Plat Book S.R.A. No. 1, Folio 3, containing, by estimation, 4.9 acres, more or less.

BEING all that lot or parcel of land which was granted and conveyed unto the said Charlestown Manor Homeowner's Association by Deed of [the Connors], dated June [25],[2] 1984 and recorded among the Land Records of Cecil County, Maryland at Liber N.D.S. No. 122 Folio 58.

TOGETHER with the buildings and improvements thereon, and all and singular the rights, ways, appurtenances and advantages thereunto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, in common with all owners, tenants and occupants of the land of the subdivision known as Charlestown Manor, it being intended that said land be used for bathing, boating and such other uses and purposes as are commonly enjoyed by owners of beach-front property.

(Emphasis added.) The October 1984 deed was recorded in the Land Records of Cecil County in Liber N.D.S. No. 127, Folio 227.

In the third deed, dated March 28, 2006 (the "March 2006 deed"), the Connors transferred land unto Charlestown Land with the following description:

ALL THAT CERTAIN LOT OR PARCEL OF LAND SITUATE in the fifth Election District of the County of Cecil, State of Maryland, and being more particularly described as follows:

BEGINNING between the east side of Riverside Drive and the low water line of the North East River, designated as Park Area of Charlestown manor [sic] on a plat dated 1923 and recorded among the Land records [sic] of Cecil County in Plat Book SRA No. 1, Folio 3, containing by estimation, 4.9 acres, more or less.

BEING all that lot or parcel of land which was granted and conveyed unto [the Connors] by Deed of Charlestown Manor Home Owner's [sic]

[2] The October 1984 deed erroneously refers to the deed signed on June 25, 1984 as dated June 29, 1984, which was the date that the June 1984 deed was recorded in the county land records.

> **Association dated [October 12],[3] 1984 and recorded among the Land Records of Cecil County, Maryland at Liber NDS No. 127, Folio 227.**
>
> ***
>
> **TO HAVE AND TO HOLD the said tract of ground and premises above described and mentioned**, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of said Eric S. Dunn, in fee simple; **SUBJECT HOWEVER, [to] the right in common with others, tenants, and occupants of the land of the subdivision known as Charlestown Manor, it being intended that said land be used for bathing, boating and such other purposes as are commonly enjoyed by owners of beach-front property[.]**

(Emphasis added.) The March 2006 deed was recorded in the Land Records of Cecil County in Liber WLB. No. 2113, Folio 74.

In the fourth deed, dated January 15, 2014 (the "January 2014 deed"), Charlestown Land transferred land unto Charlestown Manor with the following description:

> BEGINNING between the east side of Riverside Drive and the low water line of the North East River, designated as Park Area of Charlestown Manor on a plat dated 1923 and recorded among the Land Records of Cecil County in Plat Book SRA No. 1, Folio 3, containing by estimation, 4.9 acres, more or less.
>
> **BEING all that lot or parcel which was conveyed unto Charlestown [Land],[4] LLC by Deed of [the Connors], dated March 28, 2006 and recorded among the Land Records of Cecil County in Liber WLB No. 2113, folio [sic] 74.**
>
> TOGETHER WITH the buildings and improvements thereon erected, made or being, and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging or in anywise appertaining.

[3] The March 2006 deed erroneously refers to the June 1984 deed, rather than the October 12, 1984 deed in which Charleston HOA transferred the 4.476-acre park area back to the Connors.

[4] The January 2014 deed erroneously states that the March 2006 deed conveyed land to Charlestown Manor, LLC instead of Charlestown Land, LLC.

> **TO HAVE AND TO HOLD the above granted and hereby conveyed land and premises unto the said Charlestown Manor, LLC**, its successors and assigns, forever, in fee simple. SUBJECT, HOWEVER, to any and all rights of way, restrictions, conditions and covenants of record; **ALSO SUBJECT HOWEVER, to the right in common with others, tenants and occupants of the land of the subdivision known as Charlestown Manor, it being intended that said land be used for bathing; boating and such other purposes as are commonly enjoyed by owners of beach-front property.**

(Emphasis added.)

Finally, in the fifth deed, dated July 2, 2014 (the "July 2014 deed"), the Connors conveyed all of their remaining and residual property located in Charlestown Manor to Ms. Lloyd by deed recorded among the Land Records of Cecil County at Liber DWL No. 3611, Folio 193. The language pertaining to the description of the Parcel states:

> **THE PROPERTY herein being conveyed is** . . . **the residue of any remaining lands as conveyed** by a deed from William B. Calvert to [the Connors] dated January 15, 1964 and recorded among the land [sic] Records of Cecil County in Liber WAS 147-346[.]

(Emphasis in original.) The July 2014 deed also contains a "To Have and To Hold" clause, which states:

> To Have and To Hold the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Kimberlee A. Lloyd, as sole owner, in fee simple.

On April 1, 2019, Ms. Lloyd filed a complaint to quiet title against Charlestown Manor in the Circuit Court for Cecil County. In the complaint, Ms. Lloyd alleged that Charlestown Manor had erroneously claimed ownership to the Parcel, when in fact she owned the Parcel and Charlestown Manor owned the park area on either side of the Parcel.

Ms. Lloyd further alleged that the Connors never intended to transfer the Parcel to Charlestown Land, but rather intended to transfer the Parcel to her. In support of this contention, Ms. Lloyd attached to her complaint a letter from the Connors, dated June 23, 2016, which states:

> We, Mark J. Connor, and Sarah E. Connor, his wife, hereby affirm, that on or about the 2nd day of July, 2014, transferred [sic] all of our residual lands located in Charlestown Manor, Charlestown, Maryland, including a .424 acre waterfront lot, located on Shore Drive to Kimberlee Lloyd, Grantee. Said lot is more particularly described on a plat prepared by McCrone, a copy of which is attached hereto, as Exhibit "1."

On September 13, 2019, Charlestown Manor filed a motion for summary judgment, arguing that "under Cecil County law, the [] [P]arcel was never legally subdivided[,]" and therefore "does not exist as a legal division of land, [and] any attempt to convey [the Parcel] is void and of no legal effect." Charlestown Manor also asserted that the "'Being Clause' is not required as a legal element of a deed under Maryland Law[,]" and thus "[Ms. Lloyd]'s argument is based upon an erroneous premise. The contents of a being clause cannot be relied upon to describe or establish the property being conveyed in the instrument."

On October 25, 2019, Ms. Lloyd responded to the motion for summary judgment, arguing that the Parcel "was never a part of the area designated as a Park in the 1923 plat of Charlestown Manor," and therefore never needed to be legally subdivided. Ms. Lloyd further contended that, in any event, whether the Parcel was legally subdivided or not "has no bearing on whether [the Parcel] was lawfully transferred unto [Ms. Lloyd] by the Connors[.]" Lastly, Ms. Lloyd argued that the intent of the Connors was not to transfer the Parcel to Charlestown Land or to include it with the park area.

A trial was held on August 25 and 26 of 2021. Eric Dunn, a member of Charlestown Land, testified that he reviewed the 1923 plat and title with his settlement attorney and acknowledged that Charlestown Land had purchased the park area that was to the right and left sides of the Parcel. Ms. Lloyd testified that she has been paying Maryland real estate taxes on the Parcel since 2016. Ms. Lloyd also explained that she had several meetings with surveyors and members of Cecil County's Zoning Department regarding the potential use and development of the land, all of whom recognized her ownership interest in the Parcel. Stephen J. O'Connor, the Zoning Administrator for Cecil County, testified about the County's recognition of Ms. Lloyd as the owner of the Parcel, stating: "We recognized that there was a deed and that the . . . Planning and Zoning regulations could not prevent the deed."

The circuit court, by order dated January 6, 2022, determined that Ms. Lloyd was the sole owner of the Parcel and that Charlestown Manor was "enjoined from asserting any claim, title or interest" relating to the Parcel. The court stated, in relevant part:

> The Deed recorded at Liber WAS 147, Folio 346 and dated January 15, 1964 evidences the conveyance of 200-acres of real property by William B. Calvert (Grantor) to [the Connors] (Grantees). Over the course of time, [the Connors] sold parcels or pieces of the 200-acre parcel of real property in various transactions. On March 28, 2006, [the Connors] conveyed 4.9 acres of the 200-acre parcel of real property to Charlestown Land, LLC as referenced in the Deed recorded at Liber 2113 Folio 074. Said conveyance did not include the [Parcel] pursuant to the Saving and Excepting Clause. As such, [the Connors] owned the [Parcel] on July 2, 2014, the date of the conveyance to Kimberlee A. Lloyd. As such, the Court finds that the [Parcel] at issue is captured in the residue clause of the Deed dated July 2, 2014 and recorded at Liber 3611-193.
>
> [Appellee] Kimberlee A. Lloyd is, therefore, the absolute owner of the [Parcel] located on Shore Drive, formerly known as Riverside Drive.

> [Appellant] Charlestown Manor, LLC is hereby enjoined from asserting any claim, title or interest, at law or otherwise, relating to the use, occupancy, possession or ownership of the [Parcel] or any portion thereof.

Charlestown Manor filed this timely appeal. We shall provide additional facts as necessary to the resolution of the questions presented.

STANDARD OF REVIEW

When, as here, an action has been tried without a jury, we review the case on both the law and the evidence. Md. Rule 8-131(c). We will not set aside the judgment of the trial court on the evidence unless clearly erroneous. *Id.* Under the clearly erroneous standard, a reviewing court's task "'is limited to deciding whether the circuit court's factual findings were supported by 'substantial evidence' in the record.'" *Thomas v. Cap. Med. Mgmt. Assocs., LLC*, 189 Md. App. 439, 453 (2009) (quoting *Liberty Mut. Ins. Co. v. Md. Auto. Ins. Fund*, 154 Md. App. 604, 609 (2004)). The clearly erroneous standard, however, "'does not apply to a trial court's determinations of legal questions or conclusions of law based on findings of fact.'" *Webb v. Nowak*, 433 Md. 666, 676 (2013) (quoting *Heat & Power Corp. v. Air Prods. & Chems., Inc.*, 320 Md. 584, 591 (1990)). "The construction or interpretation of a deed is a question of law and therefore is subject to *de novo* review." *Bd. of Cnty. Commissioners of St. Mary's Cnty. v. Aiken*, 483 Md. 590, 616 (2023).

DISCUSSION

I. Did the trial court err by construing the deeds in the chain of title to conclude that Ms. Lloyd was the sole owner of the Parcel?

A. Arguments of the Parties

Charlestown Manor argues that the January 2014 deed from Charlestown Land "had a particular description within in [sic] it, without an exception to it, and only a reference to the source of title in, effectively 3 deeds back in the chain of title." Relying on *Cochrane v. Harris*, 118 Md. 295 (1912), Charlestown Manor asserts that "the general reference to a deed which has an exception to it – 3 deeds back in the chain – cannot affect the property conveyed by the particular description."

In response, Ms. Lloyd contends that on the 1923 plat the park area does not include the Parcel, which is located in between the two pieces of land designated as "park," and therefore the description in the deed clearly identifies the land transferred to Charlestown Manor. Further, Ms. Lloyd asserts that the deeds should be construed according to the intent of the parties, and that such intent is evidenced by (1) the inclusion of the reference to the 1923 plat, (2) the "Being" clause that specifically references other deeds in the chain of title, and (3) statements from the Connors and from a member of Charlestown Land that the Parcel was not included in the transfer to Charlestown Land.

B. Analysis

The Supreme Court of Maryland set forth the basic principles of deed interpretation in *Chevy Chase Land Co. v. U.S.*, 355 Md. 110, 123 (1999), as follows:

> In construing a deed, we apply the principles of contract interpretation. *Buckler v. Davis Sand, Etc., Corp.,* 221 Md. 532, 537, 158 A.2d 319, 322

> (1960). These principles require consideration of " 'the character of the contract, its purpose, and the facts and circumstances of the parties at the time of execution,' " *Calomiris v. Woods,* 353 Md. 425, 436, 727 A.2d 358, 363 (1999)(quoting *Pacific Indem. v. Interstate Fire & Cas.,* 302 Md. 383, 388, 488 A.2d 486, 488 (1985)). At least initially, the construction of a deed is a legal question for the court, and on appeal, it is subject to *de novo* review. *Calomiris,* 353 Md. at 433–35, 727 A.2d at 362–63. **"It is a cardinal rule in the construction of deeds that 'the intention of the parties, to be ascertained from the whole contents of the instrument, must prevail unless it violates some principle of law.' "** *D.C. Transit Systems v. S.R.C.,* 259 Md. 675, 686, 270 A.2d 793, 798–99 (1970) (*D.C. Transit I*) (quoting *Marden v. Leimbach,* 115 Md. 206, 210, 80 A. 958, 959 (1911)). Thus, we must consider the deed as a whole, viewing its language in light of the facts and circumstances of the transaction at issue as well as the governing law at the time of conveyance.

(Emphasis added.)

The description of land that was transferred in the January 2014 deed from Charlestown Land to Charlestown Manor is as follows:

> BEGINNING between the east side of Riverside Drive and the low water line of the North East River, designated as Park Area of Charlestown Manor on a plat dated 1923 and recorded among the Land Records of Cecil County in Plat Book SRA No. 1, Folio 3, containing by estimation, 4.9 acres, more or less.
>
> BEING all that lot or parcel of land which was conveyed unto Charlestown [Land],[5] LLC by Deed of [the Connors] dated March 28, 2006 and recorded among the Land Records of Cecil County in Liber WLB No. 2113, folio [sic] 74.

This deed clearly and unambiguously shows that the deed intended to transfer the "Park Area" that was transferred to Charlestown Land in the March 2006 deed. Charlestown Land could have transferred the Parcel to Charlestown Manor as part of the

[5] *See* Footnote 4, *supra*.

"Park Area" only if Charleston Land was the owner of the Parcel, regardless of the description of the land in the January 2014 deed. Whether the Parcel was transferred to Charlestown Manor, therefore, depends entirely on whether the Parcel was transferred to Charlestown Land by the Connors in the March 2006 deed.

The granting clause in the March 2006 deed reads in its entirety as follows:

> ALL THAT CERTAIN LOT OR PARCEL OF LAND SITUATE in the fifth Election District of the County of Cecil, State of Maryland, and being more particularly described as follows:
>
> BEGINNING between the east side of Riverside Drive and the low water line of the North East River, designated as Park Area of Charlestown manor [sic] on a plat dated 1923 and recorded among the Land Records of Cecil County in Plat Book SRA No. 1, Folio 3, containing by estimation, 4.9 acres, more or less.
>
> BEING all that lot or parcel of land which was granted and conveyed unto [the Connors] by Deed of Charlestown Manor Home Owner's [sic] Association dated [October 12],[6] 1984 and recorded among the Land Records of Cecil County, Maryland at Liber NDS No. 127, Folio 227.

Based on the presence of the above "Being" clause in the March 2006 deed, the Connors intended to transfer only the land that was conveyed from Charlestown Manor HOA back to them in the October 1984 deed. At the time of the October 1984 deed, Charlestown Manor HOA did not own the Parcel, because in the June 1984 deed the Connors expressly excepted the Parcel from the conveyance of the 4.9-acre park area to Charlestown Manor HOA. Therefore, just as Charlestown Manor HOA could not convey land, *i.e.*, the Parcel, that it did not own in the October 1984 deed to the Connors, neither

[6] *See* Footnote 3, *supra*.

could Charlestown Land convey land that it did not own in the January 2014 deed to Charlestown Manor. Accordingly, Charlestown Manor never became the owner of the Parcel.

Further evidence of the intention of the parties to a deed can be found in the language of the habendum clause, or the "To Have and To Hold" clause, of a deed. *See D.C. Transit I*, 259 Md. at 679-80, 688-89. In *DC Transit I*, the deed "grant[ed] and convey[ed] . . . all the piece or parcel of land" described in the deed. *Id.* at 679. The habendum clause, however, stated: "'To have and hold the same unto and to the use of . . . [the railroad company] *for a right of way* . . . .'" *Id.* at 680 (emphasis in original). Thus the only reference to the "right of way" was in the habendum clause and not in the granting clause. Nevertheless, our Supreme Court concluded that based on the deed language and the circumstances, the parties intended to convey only an easement. *Id.* at 689. The Court reasoned that the use of the term "right of way" in the habendum clause was "obviously intended to have some meaning [and] makes clear the intent of the parties to grant an easement." *Id.*

Similarly, in the instant case, the intent of the parties to the March 2006 deed is evident when we consider the habendum clause in that deed and the two prior deeds in the chain of title, the October 1984 deed and the June 1984 deed. The June 1984 deed contains a habendum clause that states:

> TO HAVE AND TO HOLD, in common with all owners, tenants and occupants of the land of the subdivision known as Charlestown Manor, it being intended that said land be used for bathing, boating and such other uses and purposes as are commonly enjoyed by owners of beach-front property.

This clause indicates that all the park area being transferred to Charlestown Manor HOA was intended for the common use and enjoyment of the residents of Charlestown Manor. On the other hand, the Saving and Excepting Clause states, in part: "Said piece or parcel of land[, the Parcel,] having never been intended to have been conveyed or dedicated to the common use of the owners of Charlestown Manor." When these clauses are read together, it is clear that the Parcel was never intended to be for the common use of Charlestown Manor residents. The October 1984 deed, which transferred the park area, without the Parcel, back to the Connors, has an identical habendum clause, which states:

> TO HAVE AND TO HOLD, in common with all owners, tenants and occupants of the land of the subdivision known as Charlestown Manor, it being intended that said land be used for bathing, boating and such other uses and purposes as are commonly enjoyed by owners of beach-front property.

Finally, the habendum clauses in both the March 2006 deed from the Connors to Charlestown Land and the January 2014 deed from Charlestown Land to Charlestown Manor contain virtually identical language to the June and October 1984 deeds:

> SUBJECT HOWEVER, to the right in common with others, tenants, and occupants of the land of the subdivision known as Charlestown Manor, it being intended that said land be used for bathing; boating and such other purposes as are commonly enjoyed by owners of beach-front property.[7]

In sum, because the stated purpose of the March 2006 deed in the "To Have and To Hold" clause was to convey the park area to Charlestown Land for the common use of Charlestown Manor residents, and the June 1984 deed declared that the Parcel was never

[7] The language of the habendum clauses in the March 2006 and January 2014 deeds is identical, except for the addition of the word "to" after "HOWEVER" and a semicolon after "bathing" instead of a comma in the January 2014 deed. These differences are inconsequential.

intended to be dedicated to the common use of the Charlestown Manor residents, it is clear that the parties did not intend that the Parcel be a part of the conveyance of land in the March 2006 deed. Consequently, the Parcel remained in the ownership of the Connors until they transferred it to Ms. Lloyd in the July 2014 deed.

Nevertheless, Charlestown Manor cites to *Conrad/Dommell, Inc. v. West Development Co.* for the proposition that, in order for a reservation contained in a saving and excepting clause to be given effect, "(1) the language of a deed must be sufficiently definite and clear in order to create a reservation or exception[;] (2) [i]n accord with the general rule that deeds are to be construed against the grantor, exceptions and reservations are to be narrowly construed." 149 Md. App. 239, 276 (2003).

Looking at the language of the June 1984 deed, it is clear that the intent of the parties was to exclude the Parcel from the transfer of the park area to Charlestown Manor HOA. The deed granted to Charlestown Manor HOA the land "between the east side of Riverside Drive and the low water line of the North East River, designated as park area of Charlestown Manor on a plat dated 1923 . . . containing, by estimation 4.9 acres, more or less." The Saving and Excepting Clause stated that the Parcel was excluded from the transfer of the park area to Charlestown Manor HOA, and the survey referenced in the Saving and Excepting Clause, and attached to the June 1984 deed, showed where the Parcel was separated from the rest of the park area. Based on this explicit language, the Parcel was not conveyed to Charlestown Manor HOA in the June 1984 deed, and thus Charlestown Manor HOA never owned the Parcel to convey back to the Connors in the October 1984 deed. Because the March 2006 deed described the land transferred to

Charlestown Land from the Connors as only that which was transferred in the October 1984 deed, the language of the March 2006 deed was sufficiently clear and definite to create a reservation of the Parcel from the transfer of the park area to Charlestown Land.

Charlestown Manor argues further that the "Being" clause in the January 2014 deed cannot limit the description of the 4.9-acre park area transferred in that deed, relying on *Cochrane v. Harris*, 118 Md. 295 (1912). In *Cochrane*, the grantors transferred by deed in 1876 "all our right, title and interest in and to the hereinafter described pieces or parcels of ground . . . as conveyed by . . . deed bearing date on the 30th day of June, 1855[.]" *Id.* at 299. The 1876 deed went on to specifically describe three lots or parcels of land. *Id.* at 299-300. The 1855 deed, however, conveyed more than 14 separate lots or parcels of land. *Id.* at 296. Therefore, the question before our Supreme Court was whether the 1876 deed conveyed only the land specifically described in it or all the land described in the 1855 deed. *Id.* at 299.

The Court observed that "[t]here is no reference to the deed of 1855 which can suggest, much less show, that there was an intention of the parties to convey all of the pieces or parcels of ground conveyed by that deed." *Id.* at 300. Specifically, "[t]here are three pieces or parcels of ground 'hereinafter described,' and there is nothing whatever to suggest that any parcels of ground were intended to be conveyed except those three parcels, beyond the mere reference 'as conveyed' by the deed of 1855." *Id*. at 300-01. The Court concluded that "'[i]t is too well settled to require the citation of authorities that a particular description of premises conveyed, when such particular description is definite and certain,

will control a general reference to another deed as the source of title.'" *Id.* at 302 (quoting *Smith v. Sweat*, 90 Me. 528 (1897)).

Charlestown Manor also cites to *Lazenby v. F. P. Asher, Jr. & Sons, Inc.*, 266 Md. 679 (1972), in which, similar to *Cochrane*, the deed description contained only some of the land transferred to the grantor in a previous deed. *Id.* at 681. In *Lazenby*, the grantor and grantee executed a deed that described a particular parcel of land and included a "Being" clause stating that the deed intended to convey all of the property that had been conveyed in a previous deed to the grantor. *Id.* The parties discovered later that the previous deed conveyed additional land to the grantor that was unknown to the parties, and thus the description in the deed to the grantee was less than all the land transferred in the previous deed. *Id.* The Supreme Court of Maryland held that the trial court did not err when it found that neither party knew of the additional land and thus "the buyer is not entitled to something that he never intended to buy and the seller never intended to sell." *Id.* at 686-87.

Both *Cochrane* and *Lazenby* are distinguishable from the instant case. In those cases, the subject deed contained a description of less than all the land transferred in the previous deed. Here, on the other hand, quite the opposite is true. The description of the land in the March 2006 deed appears on its face to convey the entire 4.9-acre park area, including the Parcel. The "Being" clause, however, limits the transfer to only the land conveyed in the previous deed, which did not include the Parcel.

A case closer factually to the instant case is *Zittle v. Weller*, 63 Md. 190 (1885). In *Zittle*, Samuel Bachtel conveyed to his mother in 1852 an undivided one-third interest in

his lands for her life, retaining the reversion in fee. *Id.* at 194. The next year, Bachtel sold all of his lands to Jacob Weller, with the granting clause first stating that Bachtel conveyed his entire interest in said lands. *Id.* at 195. The next sentence of the granting clause, however, recites that the interest conveyed was "the two-thirds of the above described land." *Id.* When Bachtel's mother died in 1883, Bachtel's daughter filed a suit for partition, claiming a one-third interest in the property. *Id.*

Our Supreme Court first observed that "a cardinal principle in the construction of deeds[]" is "that the intention of the parties shall prevail" and that "[t]o ascertain this meaning and intent of the parties resort must be had to the whole deed that every word of it may take effect and none be rejected." *Id*. at 196. Applying those principles to the case at hand, the Court "ruled that the general grant of all Bachtel's interest in the lands was restricted by the words which followed, and consequently the one-third interest did not pass under the deed, but remained in Bachtel and passed to his daughter." *Brown v. Whitefield*, 225 Md. 220, 226 (1961). The Court explained:

> In the deed before us, the descriptive words with which the granting clause starts out would be sufficient to carry all the interest of the grantors in the property, if there were no words added to indicate that less than the whole land, or less than all the grantor's interest therein was being granted; but there are words, and most material words, added to the description, restricting the estate conveyed to two-thirds of the property described.

Zittle, 63 Md. at 197.

Similarly, in the instant case, the granting clause of the March 2006 deed begins with the general conveyance of the 4.9-acre park area, which appears to contain the Parcel. Immediately thereafter, and still within the granting clause, "are words, and most material

words, added to the description, restricting the estate conveyed to" the park area conveyed by Charlestown HOA to the Connors in the October 1984 deed, which did not include the Parcel. *See id.*

II. Did the trial court err by failing to hold that the Parcel could not have been excepted from the conveyance of the park area because the Parcel had never been approved by Cecil County in a subdivision planning process?

A. Arguments of the Parties

Charlestown Manor's second argument is that

> [a] smaller parcel of land within a larger parcel of a subdivision can *not* be excepted from the conveyances of the larger parcel, where such smaller parcel has never been approved as a smaller parcel within a subdivision by the County Government with authority over it, and where such a conveyance is against public policy as it expressly contravenes the law.

(Emphasis in original.) In particular, Charlestown Manor asserts that the subdivision of the 4.9-acre park area "expressly contravenes the law" because it had never "gone through the planning department to be approved and been recorded thereafter[.]" The failure of the Connors to have the Parcel approved as a separate parcel by the planning department, Charlestown Manor argues, means that they were not able to except the Parcel out of the conveyance of the larger 4.9-acre parcel. According to Charlestown Manor, because the Parcel was never carved out of the park area, Ms. Lloyd's plan to build a house on the Parcel violates the rights of the other residents of the subdivision because they have the right to use the entire park area "to access the water, boats and other enjoyment of the property adjacent to the river."

In response, Ms. Lloyd contends that the issue before this Court is "who has fee simple title to the [Parcel], not whether local or state subdivision laws regarding subdivision were satiated." According to Ms. Lloyd, both the State of Maryland and Cecil County have approved and recognized her fee simple ownership of the Parcel, and neither state nor county zoning law allows Charlestown Manor to challenge the granting of title to the Parcel in fee simple. In addition, Ms. Lloyd argues that the Parcel is part of a reasonably identifiable area on the 1923 plat that was recorded in the Land Records of Cecil County, and is thus in compliance with Maryland law. Ms. Lloyd concludes that as a result, the Parcel did not need to be subdivided.

B. Analysis

Maryland courts adhere to the objective theory of contract interpretation. *Myers v. Kayhoe*, 391 Md. 188, 198 (2006). Under this approach, "the primary goal of contract interpretation is to ascertain the intent of the parties in entering the agreement and to interpret 'the contract in a manner consistent with [that] intent.'" *Credible Behav. Health, Inc. v. Johnson*, 466 Md. 380, 393 (2019) (alteration in original) (quoting *Ocean Petroleum, Co., Inc. v. Yanek*, 416 Md. 74, 88 (2010)). "An inquiry into the intent of the parties, where contractual language is unambiguous, is based on what a reasonable person in the position of the parties would have understood the language to mean and not 'the subjective intent of the parties at the time of formation.'" *Id.* (quoting *Ocean Petroleum, Co. Inc.*, 416 Md. at 86). The parties' intention will govern unless it contravenes a settled public policy or is inconsistent with an established principle of law. *See Hartford Acc. &*

Indem. Co. v. Scarlett Harbor Assocs. Ltd. P'ship, 109 Md. App. 217, 290 (1996); *Cadem v. Nanna*, 243 Md. 536, 543 (1966).

In this case, we conclude that excepting the Parcel from the conveyance of the 4.9-acre park area does not contravene public policy or a principle of law. Although the Parcel has never undergone the subdivision approval process, which may limit what Ms. Lloyd can do with the Parcel, such deficiency does not affect the transfer of legal title to the Parcel. In a letter dated May 16, 2016, the Cecil County Department of Planning and Zoning stated:

> [The] survey [prepared by J.R. McCrone, Jr., Inc. on October 13, 1983] explicitly shows the separation of the [P]arcel from the main portion of the 4.9 acre parcel on Tax Map 31, Parcel 729. While it was not done through the subdivision approval process, this office cannot supersede the Real Property Article of the Annotated Code of Maryland, and thus cannot prevent transfer or the creation of an associated tax account ID of the property. Therefore, we will not oppose your request to the Department of Assessments and Taxation for a new Tax Account ID and the updating of the Tax Maps.

Further, the State of Maryland has, since 2016, recognized Ms. Lloyd's ownership of the Parcel by collecting taxes from Ms. Lloyd on the Parcel.

Finally, Charlestown Manor points to the "To Have and to Hold" clause of the June 1984 deed and argues that this provision accords to everyone else in the subdivision equal rights to the park area, and thus building a house on the Parcel would interfere with those rights. The simple answer to this contention is that the "To Have and to Hold" clause in the June 1984 deed does not apply to the Parcel, because the Parcel was expressly excepted from that transfer. Because we have concluded that the subsequent deeds in the chain of

title intended to except the Parcel from each transfer of the park area, the "To Have and To Hold" clauses in each of those deeds do not apply to the Parcel. The Connors's intent to except the Parcel from the conveyance of the park area to Charlestown Land, and then to convey the Parcel to Ms. Lloyd, is clear, and we shall give effect to that intention.

JUDGMENT OF THE CIRCUIT COURT FOR CECIL COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.