IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Hilltop Summit Condominium Association	:	
	:	
v.	:	No. 4 C.D. 2014
	:	Argued: June 20, 2014
Kenny Hope, Appellant	:	

BEFORE: HONORABLE DAN PELLEGRINI, President Judge
HONORABLE P. KEVIN BROBSON, Judge
HONORABLE ANNE E. COVEY, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE BROBSON **FILED: July 10, 2014**

Kenny Hope (Hope) appeals from an order/verdict, following a nonjury trial, of the Court of Common Pleas of Delaware County (trial court) dated July 29, 2013, entering judgment in favor of Hilltop Summit Condominium Association (HSCA) on HSCA's complaint in equity and Hope's counterclaim. For the reasons stated below, we affirm.

HSCA, a condominium association organized and existing pursuant to the laws of the Commonwealth of Pennsylvania, is comprised of the owners of condominium units in Hilltop Summit, a condominium complex consisting of 260 units. (Reproduced Record (R.R.) 328.) Seven of the complex buildings are three stories, containing six units on each floor. (*Id.*) Hope's condominium unit is in one such building, on the third floor. (*Id.*) All upper level units, such as Hope's, have access to an attic space that contains an "A" frame shingled roof over prefabricated wood trusses spaced two feet apart. (R.R. 756.) This attic space

serves all the units in the building and, as such, is considered to be part of the common area maintained and insured by HSCA. (R.R. 329.) When Hope purchased his unit the attic was undivided, running across the length of the building, and was accessible from each of the third-story units from an opening in each unit's ceiling. (R.R. 334.)

The Declaration of Condominium of Hilltop Summit (Declaration) (R.R. 639-68), the Hilltop Summit Code of Regulations (Regulations) (R.R. 669-709), and the HSCA Rules and Regulations (HSCA Rules) (R.R. 710-14) (collectively, the "Association Documents"), do not allow a unit owner to make any structural additions or alterations to either his unit or any common area without the prior consent of the HSCA Council. (R.R. 639-714.) Specifically, Article VII, Section 4 of the Regulations provides that:

> A Unit owner shall not make structural modifications or alterations in his Unit or installations located therein without previously submitting plans and specifications therefore to Council . . . and securing the Council's written approval . . . . In no event shall a Unit owner do any work which would jeopardize the soundness or safety of the Property . . . .

(R.R. 691.) Also prohibited is any use or practice "which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Property by its residents." (R.R. 692.) Under Section 3 of Article XIII of the Regulations, each unit owner agrees "[n]ot to make or cause to be made any structural addition or alteration to his Unit or to the Common Elements without prior consent of the Council" and "[t]o make no alteration, decoration, repair, replacement or change of the Common Elements." (R.R. 704.) When an owner violates these provisions, the HSCA has the right to "proceed in a Court of Equity for an injunction to seek compliance with the provisions hereof." (*Id.*)

HSCA filed a Complaint in Equity on December 6, 2011, seeking injunctive relief and asserting a breach of contract claim against Hope. HSCA alleged that Hope violated the Association Documents by remodeling his condominium unit, constructing an additional closet in the common area attic above his unit, and continuing to make noise bothersome to other residents. Hope filed an Answer, New Matter, and Counterclaim, seeking relief for breach of contract based upon HSCA's failure to comply with the Association Documents by issuing improper notices and excessive fines and by failing to follow procedural guidelines in the Association Documents, as well as injunctive relief ordering HSCA to comply with all provisions of the Association Documents, including rescinding fines, conducting mandatory meetings, and affording proper notice.

HSCA filed a Petition for Injunction on February 15, 2012, which was heard before the Honorable Chad F. Kenney, President Judge of the Court of Common Pleas of Delaware County, on April 18, 2012. President Judge Kenney entered an order and preliminary injunction on April 23, 2012, which (1) enjoined Hope from all construction activities and remodeling either within or outside of his unit and the attic space above the unit; (2) enjoined and instructed Hope to comply with the Declaration, the Regulations, and the HSCA Rules; (3) enjoined Hope and all residents of HSCA from conducting themselves in a harassing or disturbing manner or unreasonably annoying neighbors or other members of HSCA; (4) ordered Hope to allow HSCA to inspect his unit and the common area attic above it to identify any unapproved installations; and (5) ordered Hope to pay $2,000 to HSCA for costs and legal fees. (R.R. 237-39.)

The case was assigned to Judge Christine Fizzano Cannon for trial. The trial began on May 16, 2013, with HSCA represented by counsel and Hope

appearing pro se. HSCA presented the testimony of Andrew Scheerer, an engineer with Structural Design Association, and Irene Schneider from CAMCO Management Company, the manager for Hilltop Summit. Hope presented the testimony of Andrew Leone, a licensed professional engineer. Trial resumed on May 23, 2012, when Hope presented his own testimony and that of Carolyn Kurtz, a forensic document examiner. HSCA introduced over thirty exhibits into the record, including the Declaration, the Regulations, the HSCA Rules, correspondence and notices exchanged between the parties, emails, court orders, expert reports, and related documents. Hope introduced twenty-nine exhibits into the record, including his expert reports, diagrams, a 3D model of his unit and the attic above it, photographs, correspondence, and related documents.

After conclusion of the nonjury trial and review of HSCA's and Hope's Proposed Findings of Fact and Conclusions of Law, the trial court entered the following Order/Verdict:

> 1. Judgment is entered in favor of [HSCA] and against [Hope], on Counts I and II of [HSCA's] Complaint.
> 2. [Hope] is permanently enjoined from construction activities in his unit, 6121 Hilltop Drive, Brookhaven, Pennsylvania, or any common area of the Hilltop Summit Condominium, contrary to the provisions of the recorded Declaration of Hilltop Summit, Code of Regulations of Hilltop Summit and all duly adopted Rules and Regulation of the [HSCA].
> 3. [Hope] will comply with all provisions of the recorded Declaration of Condominium of Hilltop Summit, Code of Regulations of Hilltop Summit and all duly adopted Rules and Regulations of the [HSCA].
> 4. [Hope] shall, within thirty (30) days from the date of this Order/Verdict, permit the [HSCA's] contractors

or other building and construction experts hired by the [HSCA] to enter his residence at 6121 Hilltop Drive, Brookhaven, Pennsylvania for: 1) the purpose of accessing, removing and repairing all unapproved construction installed by or for [Hope] in the common area attic, restoring the common area to the condition it was in before [Hope's] construction commenced; and 2) the purpose of accessing, repairing and/or removing all unapproved electrical wiring, structural alterations and duct work that does not meet applicable codes, restoring said electrical wiring, structural alterations and duct work to that which meets applicable codes. [Hope] shall permit such access, for these purposes, to and through his unit during reasonable business hours upon forty-eight (48) hours' notice by the [HSCA's] representatives and/or agents of the request for such access. Such notice shall be posted [by] [HSCA] on the door of [Hope's] residence, 6121 Hilltop Drive, Brookhaven, Pennsylvania.

5. [Hope] shall reimburse [HSCA] for: 1) all reasonable expenses to access, remove and repair such unapproved installations, and to restore the common area to the condition it was in before [Hope's] construction commenced; and 2) all reasonable expenses to access, remove and/or repair all unapproved electrical wiring, structural alterations and duct work that do not meet applicable codes, and to restore said electrical wiring, structural alterations and duct work to that which meets applicable codes. Said sum shall be paid within ninety (90) days of presentation of paid invoices by the [HSCA] to [Hope].

6. [Hope] shall pay the sum of $4,255.00 to the [HSCA] to reimburse the [HSCA] for engineering and other inspection expenses incurred on and prior to the date of trial.

7. [Hope] shall pay the sum of $4,000.00 to the [HSCA] to reimburse the [HSCA's] court costs and attorney's fees.

8. A Judgment is entered in favor of the Counterclaim Defendant, [HSCA], and against Counterclaim Plaintiff, Kenny Hope, on [Hope's] Counterclaim.

(R.R. 792-94.) Hope filed a Post-Trial Motion for a New Trial, which the trial court denied. This appeal followed.

On appeal, Hope raises three issues: (1) whether the trial court's injunction and order is against the weight of the evidence presented at trial; (2) whether the trial court failed to narrowly tailor the injunction; and (3) whether the trial court abused its discretion by: (a) denying Hope's claim of laches; (b) accepting HSCA's interpretations of the Association Documents; and (c) not hearing Hope's argument that HSCA acted in bad faith. Our standard of review for a grant of a permanent injunction is *de novo*, and the scope of review is plenary. This Court is, however, bound by the trial court's findings of fact unless there is not competent evidence in the record to justify the trial court's findings of fact, and is likewise bound by the trial court's credibility determinations. *Big Bass Lake Cmty. Ass'n v. Warren*, 23 A.3d 619, 624 n.5 & 625 (Pa. Cmwlth. 2011) (*Big Bass II*).

Injunctive relief is appropriate in order to abate a violation of a planned community's governing documents. *Big Bass Lake Cmty. Ass'n v. Warren*, 950 A.2d 1137, 1145 (Pa. Cmwlth. 2008) (*Big Bass I*). "The party seeking the injunction must establish that (1) the right to relief is clear, (2) there is an urgent necessity to avoid an injury which cannot be compensated for by damages, and (3) greater injury will result in refusing rather than granting the relief requested." *Big Bass II*, 23 A.3d at 626. A mandatory injunction requires a very

strong showing, one that is stronger than that required for a restraining-type injunction. *Big Bass I*, 950 A.2d at 1145. The power to grant or refuse an injunction rests within the sound discretion of the trial court. *Id.* Even when the elements of a mandatory injunction are satisfied, the injunction must be narrowly tailored to abate the harm. *Big Bass II*, 23 A.3d at 626.

In *Big Bass I*, this Court observed:

> An injunction can be an appropriate remedy where real property rights are concerned. These real property rights may take the form of a restrictive covenant or an easement. Accordingly, a building erected in breach of a covenant may be ordered removed; however, the breach of the covenant must be very clear. Similarly, an injunction is appropriate to restrain interference with an easement. Where the plaintiff's real property interest is in the nature of fee simple title, an encroachment of only six inches by an adjoining landowner may be ordered removed by a mandatory injunction. This is because the occupation of an adjoining landowner's property, if continued, will ripen into a complete title.

950 A.2d at 1145 (footnote omitted) (citations omitted) (internal quotation marks omitted). Thus, our courts have held that encroachments of as little as six inches and one-and-seven-eighths inches may be ordered removed by mandatory injunction. *See Baugh v. Bergdoll*, 76 A. 207, 208 (Pa. 1910) (holding that plaintiffs had right to injunction compelling defendants to remove six-inch encroachment onto their land); *Dodson v. Brown*, 70 Pa. Super. 359, 361 (1918) (holding that plaintiffs had right to mandatory injunction compelling defendants to remove one-and-seven-eighths inch encroachment onto their property). An injunction will not be ordered, however, "where it would be inequitable, by virtue of the property owner's acquiescence, laches or inducement." *Big Bass I*, 950 A.2d at 1145.

Here, Hope argues that HSCA failed to establish a clear right to relief and that HSCA's injury could be compensated by monetary damages. Specifically, he argues that HSCA failed to establish a clear right to relief because the testimony of HSCA's engineer, Andrew Scheerer, was not sufficiently grounded in technical information to be accepted by the trial court as a matter of law. Scheerer testified that he has been an engineer for fifteen years, inspected Hope's unit and the attic at the request of HSCA, and prepared a report which was admitted into evidence. (R.R. 296-97, 411.) He observed a closet storage area in the attic which was divided into two parts: a front part which was a conventional closet, and a back part containing cubby holes with four to six electrical outlets in each cubby hole. (R.R. 299-300.) The attic area also contained smoke detectors and lights. (R.R. 300.) Scheerer testified that the attic contained "premanufactured wood trusses," three or four of which had been cut in the closet area. (R.R. 301.) He also saw an electrical panel in the closet area, which "basically distributed the power to the entire attic," and which contained no identification indicating it had been inspected by either the township or a certified electrician. (*Id.*) Scheerer also testified that Hope installed a water heater and had made changes to the duct work and piping to accommodate the heater. (R.R. 303.) Scheerer testified that the modified trusses were structurally unsound and affected adjacent units and that the closet was a hazard. (*Id.*) He testified that because Hope did not have permits from the township, the modifications to the attic were likely unsafe and should be removed. (R.R. 304.)

Hope's argument is fundamentally flawed because it is erroneously premised on the idea that the structural deficiencies or potential hazards of the attic closet are the basis for HSCA's right to relief. Rather, HSCA's right to relief is

based upon the fact that Hope's actions are clearly prohibited by the Association Documents. Section Six of the Declaration clearly delineates the space deeded to an owner of a unit (R.R. 645), which is aptly summarized as the "walls-in" of a unit. (R.R. 329-30.) Section Seven of the Declaration defines the Common Elements as "those portions of the Buildings which are not included within the title lines of any Unit and which are not made part of a Unit by Section 6(b)," and specifies that the Common Elements include "all parts of the Buildings above the wallboard ceiling of a Unit on the top floor of the apartment Buildings." (R.R. 647.) The Association Documents prohibit making any "structural modifications or alterations in [a] Unit or installations located therein without previously submitting plans and specifications therefore to Council . . . and securing the Council's written approval," and further prohibit a "Unit owner do[ing] any work which would jeopardize the soundness or safety of the Property." (R.R. 691.) Also prohibited is any use or practice "which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Property by its residents." (R.R. 692.) Furthermore, each unit owner agrees "[n]ot to make or cause to be made any structural addition or alteration to his Unit or to the Common Elements without prior consent of the Council" and "[t]o make no alteration, decoration, repair, replacement or change of the Common Elements." (R.R. 704.) Finally, the Association Documents reserve the right of HSCA to file a suit in equity seeking an injunction when the provisions of the Association Documents are violated. (*Id.*)

It is thus clear that the construction of a closet in the common area attic and any other modifications made to the attic area are violations of the Association Documents and that, as such, HSCA has the right to seek an injunction

against Hope regardless of the structural integrity of said alterations. The quality of the work in the attic is irrelevant in establishing HSCA's right to relief, and Scheerer's testimony is therefore not necessary to establish HSCA's right to relief.[1]

The trial court does, however, appear to rely on Scheerer's report in finding the second prerequisite for an injunction, as it cites to the existing and potential hazards identified by Scheerer in establishing an urgent necessity to avoid harm which cannot be compensated by damages. Hope argues that the trial court erred in accepting the weight of Scheerer's testimony. "[A] true weight of the evidence challenge concedes that sufficient evidence exists to sustain the verdict but questions which evidence is to be believed. Accordingly, a weight of the evidence challenge contests the weight that is accorded the testimonial evidence." *Commonwealth v. Morgan*, 913 A.2d 906, 909 (Pa. Super. 2006) (citations omitted) (internal quotation marks omitted). In reviewing a weight of the evidence claim, we note:

> The weight of the evidence is exclusively for the finder of fact who is free to believe all, part, or none of the evidence and to determine the credibility of the witnesses. An appellate court cannot substitute its judgment for that of the finder of fact. Thus, we may only reverse the lower court's verdict if it is so contrary to the evidence as to shock one's sense of justice.

Commonwealth v. Champney, 832 A.2d 403, 408 (Pa. 2003) (citations omitted).

[1] We do, however, note that if establishing HSCA's right to relief required proof of the structural deficiency of Hope's attic addition, then the testimony of Hope's own expert engineer would be sufficient to establish such deficiencies. (*See* R.R. 426 ("The trusses were cut to make room for the closet space. I analyzed the trusses and found that they were indeed overstressed due to those modifications that were made.").)

Here, Scheerer's report contains sufficient information to determine the source of Scheerer's opinions. The report states several times that the attic alterations were done without permits, and Scheerer testified that Hope failed to produce any permits when asked during the inspection. (R.R. 304, 756, 759, 762.) It is clear from the report that Scheerer deemed the attic modifications a hazard because approximately four of the trusses "have been structurally modified to develop the finished space." (R.R. 759.) Likewise, the report notes that the "supply and exhaust piping are not installed correctly" and are, therefore, a hazard. (R.R. 762.) Scheerer deemed the duct modifications a hazard because the "exhaust furnace pipe is cut." (*Id.*) He also found the water heater to be a hazard to the building because it "is not piped properly." (*Id.*) Hope's own engineer, Andrew Leone, who also testified that the alterations in the attic had resulted in structural deficiencies, corroborated Scheerer's testimony. (R.R. 303, 437-38, 447, 759.)

Lastly, Scheerer testified, and his report states, that because the electrical work was not pre-approved and has not been inspected, it is a potential hazard. (R.R. 301, 304, 312, 756, 763.) The lack of inspection is a factual question, requiring no expertise, and the conclusion that uninspected electrical work poses a potential hazard requires only common sense. Thus, having reviewed Scheerer's report and testimony, we cannot conclude that the trial court's reliance on them "shock[s] one's sense of justice." *Champney*, 832 A.2d at 408. We conclude, therefore, that the trial court's finding that the deficient structural alterations in the attic and the potential hazards of unapproved and uninspected changes in the electrical, wiring, and duct work present an urgent necessity to

avoid an injury which cannot be compensated by damages is based upon competent evidence.[2]

Next, Hope argues that the trial court did not narrowly tailor the injunction. HSCA sought an injunction compelling and directing Hope to "cease and desist all construction activities" both within his unit and anywhere else in the Hilltop Summit community, and ordering Hope to reimburse HSCA for all costs and attorney's fees. (R.R. 9-10.) The trial court, however, did not grant HSCA all the relief it sought, despite the fact that such relief would be appropriate under the Association Documents. Instead, the trial court tailored the relief granted to the harm caused by Hope by ordering the removal of only the unapproved construction in the attic, an area not owned by Hope, and any alterations—electrical, structural or to the duct work—in Hope's unit which do not meet applicable codes. In other words, the trial court did not order the removal of all the modifications, alterations or repairs to Hope's unit, but instead ordered the removal only of construction in an area Hope did not own and had no right to possess and any modifications that presented potential hazards. Additionally, HSCA claimed that it had incurred $20,721.05 in attorney's fees in this matter, but the trial court only ordered Hope to pay $4,000.00 and any reasonable expenses incurred to make the removals or repairs required by the injunction. Thus, this Court concludes that the trial court

[2] We note that the trial court also relied upon the potential for a future adverse possession claim, based upon the fact that Hope is possessing property which does not belong to him, as an injury for which damages would not be an adequate remedy. We agree. *See Dodson v. Brown*, 70 Pa. Super. 359, 361 (1918) (granting injunction to compel removal of wall encroaching on plaintiff's property by one and seven-eighths inches because "aggrieved property owner's right is absolute" and reasoning that "[i]f damages may be substituted for the land, it will amount to an open invitation to those so inclined to follow a similar course and thus secure valuable property rights").

narrowly tailored the injunction to the relief necessary to abate the harm suffered, and we will not overturn it.

Hope's final argument is that the trial court abused its discretion. "An abuse of discretion is not merely an error in judgment. It requires a showing of manifest unreasonableness, partiality, ill-will, or such lack of support as to be clearly erroneous. A party challenging a trial court's discretionary judgment on appeal bears a heavy burden." *Zauflik v. Pennsbury Sch. Dist.*, 72 A.3d 773, 797 (Pa. Cmwlth. 2013) (citations omitted) (internal quotation marks omitted). Specifically, Hope argues that the trial court abused its discretion by denying his claim of laches, accepting HSCA's interpretation of the Association Documents, and denying his bad faith claim. Each argument lacks merit.

Hope argues that HSCA's claim should be barred by the doctrine of laches, because HSCA should have known about the attic addition as many as fourteen years ago, and that the trial court abused its discretion in denying his laches claim. Laches is an equitable doctrine which

> bars relief when the complaining party is guilty of want of due diligence in failing to promptly institute the action to the prejudice of another. Thus, in order to prevail on an assertion of laches, respondents must establish: a) a delay arising from petitioner's failure to exercise due diligence; and, b) prejudice to the respondents resulting from the delay.

Sprauge v. Casey, 550 A.2d 184, 187 (Pa. 1988) (citations omitted). The question of laches is a factual one to be determined by the circumstances of each case, and proof of the elements of laches must be clear on the face of the record. *Sedor v. West Mifflin Area Sch. Dist.*, 713 A.2d 1222, 1225 (Pa. Cmwlth. 1998). Because laches is a factual determination, we are bound by the trial court's findings so long as those findings of fact are supported by competent evidence in the record. *Big*

Bass II, 23 A.3d at 625. We are also bound by the trial court's credibility determinations. *Id.*

In this case, the trial court spent nine pages of its opinion detailing a timeline of what HSCA could have or should have known and when. (R.R. 829-38.) The trial court found that there was "no credible evidence that [HSCA] knew that structural alterations were being made to the Common Area Attic before February 2009. [HSCA] did not make visual confirmation of improper structural changes until October 2011." (R.R. 836.) The trial court further found that HSCA "acted swiftly" once it discovered Hope's possible alterations by issuing correspondence to Hope that demanded he remove any alterations he had made at that point. (*Id.*) These findings are supported by the evidence of record. The letters issued by HSCA to Hope in 2000 and 2001 reference only "hammering" and "loud noises emanating from [Hope's] Unit." (R.R. 715-16.) The trial court found that nothing in these letters suggests that HSCA knew or should have known that hammering and loud noises in Hope's unit meant he was making structural alterations to either his unit or the common area attic. (R.R. 830-31.) It is not until 2009 that the evidence suggests HSCA knew or should have known about the alterations. In 2009, HSCA sent Hope a letter stating:

> It has come to our attention that you have altered the attic above your Unit and are storing items in the attic. Please be aware that the attics are Common Elements and that it is not permitted, either by the Hilltop Summit documents or by the Brookhaven Municipal Fire and Building Codes, to use these spaces for storage or to alter them in any way because doing so constitutes a fire hazard and is in violation of the Hilltop Summit documents. . . . If we determine that you have indeed altered the Common attic space then you will be required to restore the Common

> attic space to it's [sic] original condition in [sic] or be subject to fines and legal action.

(Supplemental Reproduced Record (Supp. R.R.) 44b.) In the letter, HSCA requested access to Hope's unit in order to inspect the attic area above it (*id.*), but Schneider testified that they were unable to inspect the attic at that time, (R.R. 347-48). HSCA was not able to confirm that alterations had been made until Fall 2011, when HSCA sent Hope a letter dated December 1, 2011, informing him that it had "recently discovered that you have installed boards to the attic space above your unit." (R.R. 741.) HSCA filed suit less than a month after the December 1, 2011 letter, seeking injunctive relief. (R.R. 1-13.) Based upon these facts, the trial court concluded, and we agree, that there was no credible evidence that HSCA sat on its rights or failed to exercise due diligence. Because Hope has failed to prove the first element of laches, the trial court did not abuse its discretion in denying his claim of laches.

Hope next contends that the trial court abused its discretion (or, more accurately, erred as a matter of law) in accepting HSCA's interpretation of the Association Documents and failed to hear Hope's argument that HSCA had acquiesced to a change in the Rules and Regulations through their non-enforcement. A declaration of a planned community is equivalent to a contract between a member of a homeowners association and the association itself. *See Wrenfield Homeowners Ass'n v. DeYoung*, 600 A.2d 960, 963 (Pa. Super. 1991) (treating homeowner's association declaration as contract between homeowner's association and its members). When interpreting a contract,

> we attempt to ascertain the intent of the parties and give it effect. When the words of an agreement are clear and unambiguous, the intent of the parties is to be ascertained from the language used in the agreement, which will be given its commonly accepted and plain meaning.

> Additionally, in determining the intent of the contracting parties, all provisions in the agreement will be construed together and each will be given effect. Thus, we will not interpret one provision of a contract in a manner which results in another portion being annulled.

LJL Transp., Inc. v. Pilot Air Freight Corp., 962 A.2d 639, 647-48 (Pa. 2009) (citations omitted). In sum, the court will "adopt an interpretation that is most reasonable and probable bearing in mind the objects which the parties intended to accomplish through the agreement." *Wrenfield*, 600 A.2d at 963.

The trial court did not, as Hope seems to contend, merely accept HSCA's interpretation of the Association Documents. Rather, it is clear from the trial court's lengthy discussion and extensive quotation of the documents that the trial court studied the documents and interpreted them for itself. The trial court concluded that it would be "unreasonable" to interpret the Association Documents in such a way that would permit Hope to alter the roof trusses in the attic, construct a closet in an area he did not own, or make alterations and modifications to the structure, electrical panel, wiring or duct work without approval of the HSCA and without adhering to the applicable codes. (R.R. 841-42.) We agree. Indeed, from our reading of the Association Documents, any interpretation other than the one adopted by the trial court would be unreasonable. Furthermore, although Hope alleged throughout the proceeding that HSCA had acquiesced to a change in the Rules and Regulations by failing to enforce them, Hope did not attempt to present any evidence or call any witness to support his allegation. We cannot, therefore, conclude that the trial court abused its discretion (or erred as a matter of law) in interpreting the Association Documents.

Finally, Hope argues that the trial court abused its discretion (or again, erred as a matter of law) in denying his claim that HSCA acted in bad faith,

because its suit was based purely on political motivations. In support of his claim, Hope presented only his own testimony. He did not present, nor attempt to present, any evidence or witnesses that would suggest HSCA was treating Hope differently from any other resident of Hilltop Summit or that it was selectively enforcing the Association Documents. The trial court clearly chose not to credit Hope's testimony. As the finder of fact, the trial court is entitled to make that credibility determination, and this Court will not disturb it on appeal. *Big Bass II*, 23 A.3d at 625. Because Hope failed to present any credible evidence in support of his bad faith claim, we cannot conclude that the trial court abused its discretion (or erred as a matter of law) in denying Hope's claim.

Accordingly, for the reasons discussed above, the order of the Court of Common Pleas of Delaware County is affirmed.

P. KEVIN BROBSON, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Hilltop Summit Condominium Association	:	
	:	
v.	:	No. 4 C.D. 2014
	:	
Kenny Hope, Appellant	:	

O R D E R

AND NOW, this 10th day of July, 2014, the order of the Court of Common Pleas of Delaware County, dated July 29, 2013, is hereby AFFIRMED.

P. KEVIN BROBSON, Judge