



**IN THE SUPERIOR COURT
FOR THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

XIAODONG TANG,

Plaintiff,

V.

**XUAN GUO, XUEMIN MASON, and
JOHN DOES 1-5,**

Defendants.

CIVIL ACTION NO. 20-0124

FINDINGS OF FACT AND CONCLUSIONS OF LAW

I. INTRODUCTION

THIS MATTER came before the Court for a bench trial on July 18-20, 2022, August 2, 2022, and August 5, 2022 in Courtroom 202A. Plaintiff Xiaodong Tang (“Plaintiff” or “Mr. Tang”) was represented by Colin Thompson, Esq. Defendants Xuan Guo (“Defendant Guo” or “Ms. Guo”) and Xuemin Mason (“Defendant Mason” or “Ms. Mason”) were represented by Mark Scoggins, Esq.

Plaintiff's Second Amended Complaint ("SAC"), filed July 30, 2021, alleges (1) trespass, (2) breach of contract, (3) promissory fraud, and (4) unjust enrichment against Defendants. Defendants' Answer to Second Amended Complaint and Counterclaim, filed August 20, 2021, alleges (1) breach of contract and (2) unjust enrichment against Plaintiff.

The Court, having heard the arguments of counsel, having considered the evidence and testimony presented at trial, having reviewed the complete record, and being fully informed of the facts, now renders its decision.

II. FINDINGS OF FACT

At the bench trial, the Court heard testimony from the three named parties. No other witnesses were called. Based on the testimony and evidence presented at trial, the Court finds that the following facts were established by a preponderance of the evidence:

A. Background of Xiaodong Tang

Mr. Tang is a Chinese citizen. SAC ¶ 2. He traveled from China to Saipan twice in 2016, for approximately two weeks each time. *See* Declaration of Counsel ISO Plaintiff's Proposed Findings of Facts and Conclusion of Law, Ex. A, 331:7-22 (filed December 12, 2022) ("Trial Transcript"). He returned to Saipan in May 2017 and entered into a long-term lease for **Lot 411-7-1, Lot No. 400-B1-NEW-R1, Lot 400-B1-R2, and Lot 400-B1-NEW-1 (the "Fina Sisú Property")**. Tr. 327:19-21; *see also* Plaintiff's Ex. G.12 (Ground Lease Between Roman Santos and Xiaodong Tang for Fina Sisú Property). He returned to Saipan again in November 2017 and entered into a long-term lease for **Tract 21841-14 (the "PIC Property")**. *See* Plaintiff's Ex. C.4 (Assignment of Lease Between Chao-Hon Chiu and Xiaodong Tang for PIC Property). In total, Mr. Tang obtained leases to nine different properties in the CNMI and helped manage three other properties belonging to others. Tr. 57:11-15, 316:23-25.

B. Background of Xuemin Mason

Ms. Mason is a U.S. citizen residing in Saipan, CNMI. *See* Defendants' Answer to Second Amended Complaint and Counterclaim at 1 (filed August 20, 2021). She is of Chinese descent and first came to Saipan in 2009. Tr. 105:15-16. She initially worked in the tourism industry before switching to doing real estate business in 2012. Tr. 105:17-26. Ms. Mason has (or, at all relevant times, had) a business license in real estate and holds the leases to several properties in Saipan and Rota, which she rents out. Tr. 105:4-10.

1 **C. Meeting and Partnership Between Xiaodong Tang and Xuemin Mason**

2 Mr. Tang and Ms. Mason met for the first time in Saipan in 2018. Tr. 104:7-22, 280:16-19,
3 332:7-8. Mr. Tang represented to Ms. Mason that he was a successful businessman with many big
4 clients in China. Tr. 103:5-9, 281:20-23, 289:7-9. Mr. Tang sought Ms. Mason's help to sell or rent
5 out his properties; in turn, he promised to refer his clients to her in the future. Tr. 103:5-9 (Ms. Mason:
6 "[H]e told me that he wants to joint venture with me. He said that he has got a lot of clients that . . .
7 can come over and give me quick leases, but first priority is, I have to take care of his business first."),
8 281:3-10.

9 Their business relationship started off on a positive note. In late 2018 or early 2019, Mr. Tang
10 and Ms. Mason did a walkthrough of Mr. Tang's properties. Tr. 109:7-10, 110:19-22. In early 2019,
11 Ms. Mason connected Mr. Tang to her customer from a local casino, who entered into short-term rental
12 agreements for eight casino workers to live in Mr. Tang's 4-5 unit property in Chalan Kiya. Tr. 109:9-
13 113:3. Ms. Mason did not get paid any commission for finding customers to rent the Chalan Kiya
14 property but was helping Mr. Tang on the promise that he would bring her business in the future.
15 113:10-20.

16 **D. Difficulty Selling the Fina Sisu Property and the PIC Property**

17 Mr. Tang sought Ms. Mason's help to sell or rent the **Fina Sisu Property** and the **PIC**
18 **Property** (together, the "Properties"). Ms. Mason referred her local clients as well as tourists to Mr.
19 Tang, but none of these referrals resulted in the sale or rental of either Property. Tr. 100:23-101:6,
20 108:10-13, 113:21-25.

21 On January 10, 2019, Mr. Tang flew to California. Tr. 44:12-24. Despite being off island, Mr.
22 Tang continued to communicate regularly with Ms. Mason via phone calls and WeChat with regard
23 to their business venture. Tr. 123:19-23, 332:19, 335:5-7, 336:11-14.

1 **E. Mr. Tang's Peculiar Situation and Request for Assistance**

2 In or around May 2019, Mr. Tang—who was still in California—told Ms. Mason that he had
3 an emergency and asked for her assistance. Tr. 283:8-12. The emergency was related to an
4 international warrant out for Mr. Tang's arrest, set at 1 million Chinese yuan. Tr. 114:18-20, 186:23,
5 283:8-12. Mr. Tang explained that he was wanted by the Chinese government and that there were
6 people looking for him to try to get money from him or kill him. Tr. 143:4-10. He explained that
7 there had been people looking for him in Saipan, which is why he fled to the U.S. mainland, where he
8 was now seeking asylum. Tr. 45:4-6, 143:14-24, 186:13-17, 333:3-334:4. Ms. Mason felt sympathy
9 for Mr. Tang because he told her of his difficulties in China and shared that he didn't know anybody
10 else in Saipan who could help him. Tr. 118:21-25. At the time, Ms. Mason trusted Mr. Tang and
11 believed he was being sincere; she also wanted to help him because he was a fellow Chinese person.
12 Tr. 118:19-119:4, 314:2-5.

13 One request that Mr. Tang made of Ms. Mason was to introduce him to a woman (presumably
14 a U.S. citizen) who would agree to marry him as soon as possible so that he could get a green card and
15 stay in the United States. Tr. 143:20-24, 187:8-15. Mr. Tang promised to give the willing woman
16 money, a car, or a house so long as she helped him obtain a green card. Tr. 186:25-187:15. Ms. Mason
17 introduced Mr. Tang to two potential candidates, but these introductions did not result in a successful
18 match. Tr. 187:16-18.

19 **F. The \$30,000 Emergency Loan and Name Change Plan**

20 Mr. Tang also asked Ms. Mason to provide him with an emergency loan. Tr. 264:14-265:10,
21 282:3-17, 283:2-12. He said he was in urgent need of cash and promised to pay her back very soon.
22 Tr. 265:5-7, 284:10-285:10. Ms. Mason, still believing Mr. Tang to be a successful businessman with
23 many big clients, agreed and loaned him \$30,000 cash. Tr. 119:2-4 (Ms. Mason: "And at that time I
24

1 was thinking that he is such a big entrepreneur in China, so . . . he will fulfill his promise.”), 252:5-
2 11, 283:18-284:2.

3 Mr. Tang stated that he would be able to pay Ms. Mason back as soon as he sold the **Fina Sisu**
4 **Property** and **PIC Property**. Tr. 283:15-17, 284:10-16 (Ms. Mason: “He told me that he has many
5 big clients who wants to buy his property. Once the transaction is done . . . [he] will be paying [me]
6 back.”). Mr. Tang said he had a client currently in Saipan who was ready and willing to purchase the
7 Properties. Tr. 115:22-24. According to Mr. Tang, however, there was one thing standing in the way
8 of the transaction. Mr. Tang told Ms. Mason that the Properties could not be sold under his name due
9 to the international warrant out for his arrest, which deterred potential buyers from purchasing property
10 under his name. Tr. 116:16-117:8 (Ms. Mason: “Yes, he told me that [the reason] why no people want
11 to buy [is] because at that time his status is quite special, and *the buyer is afraid that the property will*
12 *be confiscated*. . . [He said] [t]he customer is here, the money is here but because of his name nobody
13 wants to buy.”) (emphasis added), 122:15-16, 285:6-20.

14 To circumvent this problem, Mr. Tang proposed a simple solution: he would transfer the
15 Properties to Ms. Mason, and then Ms. Mason could assign the leases to the buyer under her own
16 name. Tr. 198:9-25, 252:5-15. Mr. Tang offered to prepare the necessary documents and told Ms.
17 Mason he would mention her \$30,000 loan in the assignments of lease as the down payment for the
18 Properties so that it would look like a real sale. Tr. 199:4-12, 252:16-18 (Ms. Mason: “So, [he] put
19 the loan as down payment, as deposit. He said that even though it’s not a real deal . . . we still need to
20 make it look [] real.”). This process would take only three days, according to Mr. Tang, and then he
21 would be able to pay her back. Tr. 115:22-25, 122:15-16, 198:24-25, 212:17-19, 215:9-10, 254:9-11
22 (Ms. Mason: “. . . I was trying to help him to sell the property in three days—after three days because
23 he said that the customer is already in his house.”). Mr. Tang even offered to give Ms. Mason a big
24 commission because he was selling the Properties at a profit. Tr. 145:25-146:7. Ms. Mason agreed

1 and offered to have her adult daughter, Xuan Guo, sign the property transfer documents instead.¹ Tr.
2 92:11-93:15.

3 **G. Assignment of the Fina Sisu and PIC Properties from Mr. Tang to Ms. Guo**

4 In or around June 2019, Mr. Tang had his attorney in Saipan draft the assignments of lease
5 transferring his interest in the PIC Property and the Fina Sisu Property to Ms. Guo. Tr. 30:20-31:10,
6 88:18-25, 336:21-337:4; *see also* Plaintiff's Ex. E (Assignment of Lease Between Xiaodong Tang and
7 Xuan Guo for PIC Property); Plaintiff's Ex. J (Assignment of Lease Between Xiaodong Tang and
8 Xuan Guo for Fina Sisu Property).

9 The assignments of lease, and two other documents that will be discussed further below, were
10 made available for signing at the office of a notary public in Saipan. Tr. 199:11-19. Because Mr.
11 Tang was still in the U.S. mainland, he authorized his father, Chenyan Tang, to sign the documents on
12 his behalf via a power of attorney. Tr. 35:17-36:18. Ms. Mason accompanied Ms. Guo to the notary
13 public's office and witnessed the signing of the documents. Tr. 199:21-23, 223:16-224:3. Mr. Tang's
14 then-girlfriend, Chen Qiaoquio, was also present at the notary public's office and witnessed the signing
15 of the documents. Tr. 118:9-13, 199:21-23, 223:16-224:3.

16 **H. The Language of the Assignments of Lease**

17 The assignment of lease for the **PIC Property** was signed by Mr. Tang's father on Mr. Tang's
18 behalf and by Ms. Guo on June 12, 2019 and notarized on the same day. *See* Plaintiff's Ex. E at 3-4.
19 Section 3 states:

20 Assignee [Ms. Guo] agrees to pay Assignor [Mr. Tang] ***a total assignment price of***
21 ***One Hundred and Twenty Thousand Dollars (\$120,000.00)*** (the "Assignment Price").
Upon execution of this Assignment, Assignee shall pay Assignor an initial payment of
Fifteen Thousand Dollars (\$15,000.00). ***Assignee shall pay Assignor the full balance***

22 ¹ It is not entirely clear why it was necessary to have Ms. Guo sign the property transfer documents instead of Ms. Mason,
23 particularly when Ms. Mason testified to being present at the time of signing before a notary public, and given Ms. Mason's
24 belief that the entire process of transferring the Properties would take no more than three days. Tr. 199:17-25, 200:14-16.
Nevertheless, the reason why Ms. Guo was involved in this transaction is not determinative, as the Court's legal
conclusions and decisions herein rest on other grounds.

1 *of the Assignment Price within six (6) months* after the execution of this Assignment.²

2 *However, if Assignee fails to make any payment to Assignor when due, this*
3 *Assignment shall be deemed automatically rescinded* and the assignment to Assignee
4 under this Assignment shall become null and void, *and Assignor shall have the right*
5 *to keep all payments made by Assignee.* In addition, Assignee has executed a
6 rescission instrument and given it to Assignor, and agrees that in the event of
7 Assignee's failure to pay when payment is due, Assignor may unilaterally record the
8 rescission instrument to confirm the automatic rescission of the assignment.

9 *Id.* at 2 (emphasis added).

10 The assignment of lease for the **Fina Sisu Property** was also signed by Mr. Tang's father on
11 Mr. Tang's behalf and by Ms. Guo on June 12, 2019 and notarized on the same day. *See* Plaintiff's
12 Ex. J at 3-4. Section 3 states:

13 Assignee [Ms. Guo] agrees to pay Assignor [Mr. Tang] *a total assignment price of*
14 *One Hundred and Thirty Thousand Dollars (\$130,000.00)* (the "Assignment Price").
15 Upon execution of this Assignment, Assignee shall pay Assignor an initial payment of
16 Fifteen Thousand Dollars (\$15,000.00). *Assignee shall pay Assignor the full balance*
17 *of the Assignment Price within three (3) months* after the execution of this
18 Assignment.³

19 *However, if Assignee fails to make any payment to Assignor when due, this*
20 *Assignment shall be deemed automatically rescinded* and the assignment to Assignee
21 under this Assignment shall become null and void, *and Assignor shall have the right*
22 *to keep all payments made by Assignee.* In addition, Assignee has executed a
23 rescission instrument and given it to Assignor, and agrees that in the event of
24 Assignee's failure to pay when payment is due, Assignor may unilaterally record the
rescission instrument to confirm the automatic rescission of the assignment.

25 *Id.* at 2 (emphasis added).

26 Neither Ms. Mason nor Ms. Guo read the assignments of lease before Ms. Guo signed them.
27 Ms. Mason did not think it was necessary to familiarize herself with the terms of the assignments of
28 lease because she believed that Mr. Tang was not actually selling his Properties to her; rather, the
29 transfer of the Properties from Mr. Tang's name to Ms. Guo's name was only a formality that would
30 allow Mr. Tang to sell the Properties to a buyer he had already secured. Tr. 184:19-21 (Ms. Mason:
31 "Because it's not a real deal, so I did not go into it for more detail."), 257:11-20 (Ms. Mason: "I never

32 _____
33 ² By the language in this agreement, December 2019 would have been the deadline for Ms. Guo to pay the full balance.

34 ³ By the language in this agreement, September 2019 would have been the deadline for Ms. Guo to pay the full balance.

1 read any documents. I totally believe[d] in Mr. Tang that after the name transfer, the properties will
2 be sold in a few days.”).

3 Ms. Guo understood that she was signing documents which would transfer interest in certain
4 properties to her name, but she knew very little else about the transaction other than that she was
5 helping her mother in some sort of business venture with Mr. Tang. Tr. 225:2-8 (Ms. Guo: “[S]he
6 didn’t tell me everything, the story. . . . [She] was working for Mr. Tang I believe. . . . If my mom
7 decide, then probably they are deal[ing] with [each other] and then I’m not going to ask[.]”), 228:2-5
8 (Ms. Guo: “Yeah, I did sign the contract but honestly, I [did] not even look at it . . .”).

9 **I. The Rescission Documents**

10 Two other documents were made available for Ms. Guo to sign at the notary public’s office at
11 the same time she signed the assignments of lease. One document, entitled Confirmation of Rescission
12 of Assignment of Lease, purported to rescind the assignment of the **PIC Property** from Mr. Tang to
13 Ms. Guo. *See* Plaintiff’s Ex. D. It states in relevant part:

14 *Assignee [Ms. Guo] has failed to make a payment to Assignor [Mr. Tang] when due.*
15 *Therefore, the Assignment has been automatically rescission [sic],* which the parties
16 hereby confirm, and Assignee acknowledges that neither Assignee nor anyone claiming
through Assignee has any interest in, or any right or claim to, the Lease or the Premises
arising out of or related to the Assignment, which is null and void.

17 *Id.* at 1-2 (emphasis added).

18 The other document, also entitled Confirmation of Rescission of Assignment of Lease,
19 purported to rescind the assignment of the **Fina Sisu Property** from Mr. Tang to Ms. Guo. *See*
20 Plaintiff’s Ex. I. It states in relevant part:

21 *Assignee [Ms. Guo] has failed to make a payment to Assignor [Mr. Tang] when due.*
22 *Therefore, the Assignment has been automatically rescission [sic],* which the parties
hereby confirm, and Assignee acknowledges that neither Assignee nor anyone claiming
through Assignee has any interest in, or any right or claim to, the Lease or the Premises
arising out of or related to the Assignment, which is null and void.

23 *Id.* at 2 (emphasis added).

1 The rescission documents were signed by Mr. Tang's father on Mr. Tang's behalf and by Ms.
2 Guo on June 12, 2019—the same day as the assignments of lease—and notarized on the same day.
3 See Plaintiff's Ex. D at 2-3; Plaintiff's Ex. I at 2-3. Peculiarly, both rescission documents were also
4 recorded at the Commonwealth Recorder's Office on the same day and at the same time that both
5 assignments of lease were recorded—despite the fact that, according to the plain language of the
6 assignments of lease, Ms. Guo supposedly had until September 2019 and December 2019 to pay the
7 full balance for the Fina Sisu and PIC Properties, respectively.⁴

8 Neither Ms. Mason nor Ms. Guo read the rescission documents before Ms. Guo signed them.
9 Tr. 228:2-5, 257:11-20. Ms. Guo did not inquire into the details of her mother's business dealings
10 with Mr. Tang, and Ms. Mason believed the contents of the documents were not important because
11 they were simply in furtherance of helping Mr. Tang sell the Properties to his client within the next
12 three days. Tr. 184:19-21, 225:2-8.

13 **J. The Buyer Disappears and Mr. Tang Makes Another Request**

14 Days and then weeks passed after the assignment of the Properties from Mr. Tang to Ms. Guo,
15 yet the buyer that Mr. Tang promised never materialized. Tr. 126:4-127:17, 128:19-21 (Ms. Mason:
16 "I talked to Mr. Tang, I asked him, you said that [in] three days there will be a buyer but now it's more
17 than a month already, why there's no buyer?"). After weeks of continuous follow-up by Ms. Mason,
18 Mr. Tang finally told Ms. Mason that his client backed out of the deal because the Properties were too
19 damaged in the wake of Typhoon Yutu. Tr. 116:7-9, 203:3-6. Mr. Tang had another idea: if Ms.
20 Mason fixed up the Properties for him, he would be able to sell them more easily and at a higher price,
21 and then he could pay back all of the money he owed her plus a large commission. Tr. 116:9-12,
22

23 ⁴ Mr. Tang disclaimed any knowledge of why the rescission documents were recorded on the same day as the assignments
24 of lease. Tr. 88:18-89:21. Mr. Tang also disclaimed any knowledge of who recorded the assignments of lease and
rescission documents on his behalf, though he suggested that it may have been his attorney, his father, or his girlfriend.
Id.

1 266:4-11 (Ms. Mason: “Yes, he said after I fix it, he can sell the property [for] \$100,000 more. So,
2 the money that I put in for renovation, I can get it back and more easier to sell.”). When asked why
3 Mr. Tang could not repair the Properties himself, he responded that he did not have the money
4 available at the moment. Tr. 117:15-16.

5 **K. Renovations and Renting Out PIC and Fina Sisu Properties**

6 Ms. Mason agreed to renovate the Properties per Mr. Tang’s request and spent over \$70,000
7 to fix up both Properties. Tr. 125:3-5, 267:12-15, 291:9-21. During this time, Mr. Tang assured Ms.
8 Mason that he had interested clients in China who would come view the Properties. Tr. 137:4-6. He
9 asked Ms. Mason to make efforts to find interested buyers on her end, too, so that they could sell the
10 Properties more quickly. Tr. 136:10-17 (Ms. Mason: “He always told me that he has someone coming
11 . . . He was going to sell the property and he also ask[ed] me to help him to sell the property . . . I told
12 him that I will do that as soon as possible.”).

13 Months passed but the interested buyers Mr. Tang spoke of never materialized. Tr. 136:23-
14 25. During this time, Ms. Mason was also unable to find a buyer. Ms. Mason began asking Mr. Tang
15 to just repay her all of the money he owed her. Tr. 136:23-25. Mr. Tang told her that he did not have
16 the money to pay her back. *Id.* He continued pressuring her to help him find a buyer for the Properties.
17 *See, e.g.,* Plaintiff’s Ex. A (WeChat conversations between Mr. Tang and Ms. Mason).

18 Mr. Tang told Ms. Mason to rent out the Properties until they could find a buyer. Tr. 246:18-
19 20. Ms. Mason was able to rent out the renovated Properties and collected rent for both Properties.
20 Tr. 208:12-15 (Ms. Mason: “I noticed that he did not sell the property for . . . a long time . . . So, I
21 ask[ed] him to return the money to be but he refuse[d]. So, I collect[ed] the rental payment.”), 260:10-
22 14. She continues to collect rent for both Properties in the total amount of \$1,500 per month (\$500
23 per month from the PIC Property and \$1000 per month from the Fina Sisu Property). Tr. 267:25-
24 268:5.

1 **L. Mr. Tang Demands the Return of the Properties**

2 In December 2019, Mr. Tang, seemingly frustrated that they had not been able to find a buyer,
3 demanded that Ms. Mason vacate both Properties and return them to his possession. Tr. 40:20-22.
4 Ms. Mason, in turn, demanded that Mr. Tang repay the money he owed her. Tr. 185:14-25 (Ms.
5 Mason: “He said he . . . needs to get back the properties. I said that’s fine, but you will have to pay
6 me back the money.”), 210:4-5. Mr. Tang told Ms. Mason that, based on the contracts Ms. Guo had
7 signed, she was not entitled to any money from him and that any verbal agreements between them did
8 not count—only the written contracts governed. Tr. 185:25-186:2, 210:7-9, 251:17-19 (Ms. Mason:
9 “He ask me to leave, and he told me that the verbal agreement doesn’t count. Therefore, all the money
10 that I spent, he is not going to return to me.”), 268:19-269:5 (Ms. Mason: “He refused to honor all the
11 verbal agreements and he said there’s no evidence [of the verbal agreements].”).

12 **M. Mr. Tang Files This Lawsuit Against Ms. Mason and Ms. Guo**

13 On April 23, 2020, Mr. Tang filed this lawsuit against Ms. Mason and Ms. Guo alleging
14 trespass. *See* Complaint (filed April 23, 2020). He later amended his complaint to include claims for
15 breach of contract against Ms. Guo, promissory fraud against Ms. Mason, and unjust enrichment
16 against both Ms. Guo and Ms. Mason. *See* Second Amended Complaint (filed July 30, 2021). Ms.
17 Mason, who had not previously read the assignments of lease or rescission documents, reviewed the
18 documents for the first time after the lawsuit was filed. Tr. 185:2-5 (Ms. Mason: “When he filed this
19 lawsuit against me, that’s the time I really look into the contract. And I found out that what the contract
20 says is different from what he told me. He [wa]s lying to me.”).

21 **III. CONCLUSIONS OF LAW**

22 **A. Plaintiff’s Motion to Strike Portions of Ms. Mason’s Trial Testimony Is Denied**

23 As an initial matter, Plaintiff moved to strike portions of Ms. Mason’s trial testimony as
24 violative of the parol evidence rule. *See* Memo. ISO Mot. to Strike Testimony of Xuemin Mason

1 (filed August 8, 2022). The parol evidence rule bars evidence of prior or contemporaneous agreements
2 or negotiations to change or modify the terms of a binding integrated agreement. *Kim v. Baik*, 2016
3 MP 5 ¶ 23 (citing *Del Rosario v. Camacho*, 2001 MP 3 ¶ 68). “Where there is a binding agreement,
4 parol evidence is generally inadmissible if it directly contradicts an express term of the contract or is
5 directly contrary to the entire purpose of the written contract.” *Seol v. Saipan Honeymoon Corp.*, 1999
6 MP 9 ¶ 12 (citing Restatement (Second) of Contracts § 215 (1979)).

7 Plaintiff argues that the assignments of lease Ms. Guo signed, which purported to transfer the
8 PIC Property and Fina Sisu Property from Mr. Tang to Ms. Guo, are binding, integrated agreements
9 subject to the parol evidence rule. *See* Memo. ISO Mot. to Strike at 2-4. Therefore, according to
10 Plaintiff, the Court should not go outside the express terms of the written agreements to determine the
11 outcome of this case, and any testimony by Ms. Mason that contradicts the agreements must be
12 stricken. *Id.* at 4.

13 Although Plaintiff is correct that the parol evidence rule generally bars extrinsic evidence
14 introduced to vary, alter, or negate the terms of a binding agreement, the CNMI and numerous other
15 jurisdictions have long recognized a fraud exception to the parol evidence rule. *See, e.g., Del Rosario*,
16 2001 MP 3 ¶ 68 (recognizing that prior or contemporaneous agreements are admissible to show
17 “invalidating causes, such as fraud” or other “grounds for granting or denying rescission, reformation,
18 specific performance, or other remedy.”); *Lifoifoi v. Lifoifoi-Aldan*, 1996 MP 14 ¶ 24 (“Fraudulent
19 conduct may be shown by parol evidence.”); *Doe v. Gangland Prods.*, 730 F.3d 946, 958 (9th Cir.
20 2013) (“The parol evidence rule does not bar extrinsic evidence ‘[w]here the validity of the agreement
21 is the fact in dispute’ or ‘to establish illegality or fraud.’”); *Riverisland Cold Storage, Inc. v. Fresno-*
22 *Madera Production Credit Assn.*, 55 Cal. 4th 1169, 1180 (2013) (“Parol evidence is always admissible
23 to prove fraud, and it was never intended that the parol evidence rule should be used as a shield to
24 prevent the proof of fraud.”).

1 The portions of Ms. Mason’s testimony that Plaintiff wishes to strike go to the heart of the
2 validity of the agreements and establish evidence of fraud. Accordingly, the testimony is admissible
3 under the fraud exception to the parol evidence rule, and Plaintiff’s Motion to Strike Portions of Ms.
4 Mason’s Testimony is **DENIED**.

5 **B. The Assignments of Lease and Rescission Documents Are Invalid and Void**

6 A claim for breach of contract in the CNMI requires demonstrating: (1) the existence of a valid
7 contract; (2) the breach of an obligation imposed under the contract; and (3) damage to the plaintiff
8 resulting from the breach. *Tang’s Corp. v. Imperial Pac. Int’l (CNMI), LLC*, 2021 U.S. Dist. LEXIS
9 186184, *11 (D. N. Mar. I., Sept. 27, 2021). Plaintiff’s breach of contract claim fails at the first prong.

10 The NMI Supreme Court has recognized that “the formation of a contract requires a bargain in
11 which there is a manifestation of mutual assent to the exchange and a consideration.” *Markoff v.*
12 *Lizama*, 2016 MP 7 ¶ 10. “Whether a contract exists is a legal question. A contract does not arise
13 because one party desires it; there must be mutual assent.” *Brown v. Stored Value Cards, Inc.*, 2022
14 U.S. App. LEXIS 35402, *3 (9th Cir. 2022) (unpublished). Mutual assent is “[a] distinct
15 understanding common to both parties.” *Simmons v. Rush Truck Ctrs. of Idaho, Inc.*, 2017 U.S. Dist.
16 LEXIS 80963, *5 (2017). Mutual assent or a “meeting of the minds” must occur on every material
17 term in the contract. *Id.* The existence of mutual assent is generally a question of fact. *Id.*

18 Here, no valid contract existed with regard to the assignment of the PIC and Fina Sisu
19 Properties from Mr. Tang to Ms. Guo because there was no mutual assent or “meeting of the minds.”
20 As between Mr. Tang and Ms. Guo, the evidence shows that Ms. Guo did not understand the material
21 terms of either assignments of lease or their accompanying rescission documents. Ms. Guo testified
22 credibly that she knew very little about the transaction other than that she was asked by her mom, Ms.
23 Mason, to assist in a deal Ms. Mason was working on with Mr. Tang. She testified to a general
24 understanding that she was signing documents which would transfer interest in certain properties to

1 her name, but she had not read the contents of these documents. Because mutual assent must occur
2 on every material term of the contract, here no mutual assent existed between Mr. Tang and Ms. Guo,
3 who had no knowledge of a *single* material term of the agreements she signed.

4 Even accepting that Ms. Guo was merely an agent of Ms. Mason, and the bargained-for
5 exchange therefore occurred between Mr. Tang and Ms. Mason, no mutual assent occurred. Ms.
6 Mason testified credibly, consistently, and in great detail over the course of many days about the
7 circumstances surrounding her agreement with Mr. Tang. Ms. Mason testified repeatedly that it was
8 her truly held belief and understanding that she was only helping Mr. Tang circumvent the issue of the
9 international warrant out for his arrest so that the Properties could be sold within three days to Mr.
10 Tang's client. She testified that she had never intended to purchase the Properties from Mr. Tang and
11 that she did not familiarize herself with the terms of the assignments of lease because at no point were
12 they engaged in a real deal. Ms. Mason's testimony shows a clear lack of mutual assent to the terms
13 of the assignments of lease that Mr. Tang now seeks to enforce against her.

14 On his part, Mr. Tang testified that Ms. Mason knew exactly the terms of the contracts and had
15 even suggested and negotiated the terms herself. He testified that he had been cheated by Ms. Mason,
16 who took his Properties even though she had no intention of ever paying the full \$250,000 purchase
17 price. But Mr. Tang's version of events is belied by the fact that the rescission documents were
18 recorded on the same day and at the same time that both assignments of lease were recorded—despite
19 the fact that, according to the plain language of the assignments of lease, Ms. Guo supposedly had
20 another three and six months, respectively, to pay the full balance for the Fina Sisú and PIC Properties.
21 Mr. Tang offers no explanation for why the rescission documents were immediately recorded, which
22 purportedly rescinded the property transfers made that very day and *triggered the provision in the*
23 *assignments of lease that would allow Mr. Tang “to keep all payments made by Assignee.”* This
24 series of actions shows bad motive on Mr. Tang's part and strongly suggests that he was trying to

1 shield himself from repaying Ms. Mason the \$30,000. If it had actually been Mr. Tang’s intention to
2 sell the Properties to his client, and if the real reason he needed to perform the name change was to
3 avoid complications caused by the warrant out for his arrest, then he would not have immediately
4 recorded the rescission documents reverting the interest in both Properties back to his name.

5 Fraud in the “execution” or “inception” of a contract occurs when “the promisor is deceived
6 as to the nature of his act, and actually does not know what he is signing, or does not intend to enter
7 into a contract at all, *mutual assent is lacking*, and [the contract] is void. In such a case it may be
8 disregarded without the necessity of rescission.” *BladeRoom Grp., Ltd. v. Facebook, Inc.*, 2018 U.S.
9 Dist. LEXIS 54916, *9 (C.D. Cal. 2018) (emphasis added). Because the evidence shows that there
10 was no mutual assent or “meeting of the minds” as to the material terms of the contract, and further
11 that Ms. Mason and Ms. Guo were victims of fraud in the execution or inception, the Court finds that
12 there was no valid contract between Mr. Tang and either Defendant. The assignments of lease and
13 rescission documents that Ms. Guo signed on June 12, 2019 are void and unenforceable.

14 Mr. Tang has failed to meet his burden of proving the elements of his breach of contract claims
15 against Ms. Guo by a preponderance of the evidence. Therefore, these claims fail as a matter of law,
16 and Mr. Tang is entitled to nothing as to these claims. Furthermore, because Mr. Tang’s promissory
17 fraud claims against Ms. Mason are predicated on the exact same factual allegations as his breach of
18 contract claims—allegations he has failed to prove by a preponderance of the evidence—these, too,
19 fail as a matter of law, and Mr. Tang is entitled to nothing as to these claims.

20 **C. Plaintiff Is Barred From Recovery on His Trespass and Unjust Enrichment Claims**

21 A person “is subject to liability to another for trespass, irrespective of whether he thereby
22 causes harm to any legally protected interest of the other, if he intentionally . . . enters land in the
23 possession of the other, or causes a thing or a third person to do so[.]” Restatement (Second) of Torts
24

1 § 158 (1965). “The essence of the cause of action for trespass is an ‘unauthorized entry’ onto the land
2 of another.” *Team Enters., LLC v. Western Inv. Real Estate Trust*, 647 F.3d 901, 912 (9th Cir. 2011).

3 However, “[c]onduct which would otherwise constitute a trespass is not a trespass if it is
4 privileged. Such a privilege may be derived from the consent of the possessor[.]” Restatement
5 (Second) of Torts § 158 cmt. e (1965); *General Mills Restaurants, Inc. v. Texas Wings, Inc.*, 12 S.W.3d
6 827, 835 (“Actual or apparent consent is an affirmative defense to a cause of action for trespass.”);
7 *Salisbury Livestock Co. v. Colorado Cent. Credit Union*, 793 P.2d 470, 475 (1990) (“Consent of the
8 possessor or another authorized to consent is an absolute defense to trespass.”). Consent can “be
9 manifested by action or inaction and need not be communicated to the actor.” *MCI Communs. Servs.*
10 *v. Am. Infrastructure-MD, Inc.*, 2013 U.S. Dist. LEXIS 113061, *45-47 (D.Md. 2013). If the alleged
11 trespasser reasonably understands the words or conduct to be intended as consent, then the words or
12 acts constitute apparent consent. *Id.* As such, “[c]onsent may be express or implied,” and the
13 determination of whether consent was given is a question of fact. *Id.*

14 Moreover, under the doctrine of unclean hands, a person cannot obtain relief in a court of
15 equity if he or she acted inequitably, unfairly, or dishonestly as to the controversy at issue. *Melia v.*
16 *Hansen*, 31 Neb. App. 517, 533 (2023); *Finkovitch v. Cline*, 236 Mass. 196, 128 N.E. 12, 13 (Mass.
17 1920) (“A fundamental maxim of equity is that one seeking its protection must come into court with
18 clean hands with reference to the particular matter in issue.”); *Keystone Driller Co. v. Gen. Excavator*
19 *Co.*, 290 U.S. 240, 244-45 (1933) (“[W]henever a party . . . has violated conscience, or good faith, or
20 other equitable principle, in his prior conduct, then the doors of the court will be shut against him *in*
21 *limine*; the court will refuse to interfere on his behalf, to acknowledge his right, or to award him any
22 remedy.”). Thus, the unclean hands doctrine “closes the doors of a court of equity to one tainted with
23 inequity or bad faith relative to the matter in which he seeks relief, however improper may have
24 been the behavior of the defendant.” *Intamin, Ltd. v. Magnetar Techs. Corp.*, 623 F. Supp. 2d 1055,

1 1074 (C.D. Cal. 2009). Conduct that equates to unclean hands is generally fraudulent, illegal, or
2 unconscionable. *Melia*, 31 Neb. App. at 533.

3 Consistent with these principles, the Court finds that Plaintiff's cause of action for trespass
4 cannot stand. First, Ms. Mason testified that Mr. Tang instructed her to rent out the Properties until
5 they could find a buyer. This constitutes consent. Second, even if Mr. Tang's demand for the return
6 of the Properties in December 2019 constituted a revocation of consent, the doctrine of unclean hands
7 bars recovery where Plaintiff, through his own fraudulent acts, created the very situation he now finds
8 himself in. The weight of the evidence shows that Mr. Tang orchestrated an elaborate web of lies
9 wherein he:

- 10 • tricked Ms. Mason and Ms. Guo into signing contracts purportedly assigning interest in the
11 Properties from Mr. Tang to Ms. Guo,
- 12 • immediately recorded false rescission documents to shield himself from having to return the
13 \$30,000 that Ms. Mason loaned him,
- 14 • instructed Ms. Mason to find buyers or renters for the Properties,
- 15 • insisted that the Properties were too severely damaged during Typhoon Yutu and required
16 repairs before anyone would buy them, and
- benefitted from Ms. Mason's expenditure of her own money, time, and effort to improve the
Properties at his direction.

17 He cannot now use the judicial system⁵ in order to unfairly benefit from a situation he created by acting
18 in bad faith. For these reasons, the Court declines to award Plaintiff the equitable remedies requested
19 under his trespass claim.

22 ⁵ "The unclean hands doctrine protects judicial integrity and promotes justice. It protects judicial integrity because
23 allowing a plaintiff with unclean hands to recover in an action creates doubts as to the justice provided by the judicial
24 system. Thus, precluding recovery to the unclean plaintiff protects the court's, rather than the opposing party's, interests.
The doctrine promotes justice by making a plaintiff answer for his own misconduct in the action. It prevents a wrongdoer
from enjoying the fruits of his transgression." *Jay Bharat Developers, Inc. v. Minidis*, 167 Cal. App. 4th 437, 445 (2008).

1 With regard to Plaintiff's request for money damages in the form of loss in rental income due
2 to Ms. Mason and Ms. Guo continuing to be in possession of the Properties, the Court finds that
3 Plaintiff has failed to show entitlement to any amount of rental income. Had Plaintiff not deceived
4 Ms. Mason into repairing the Properties on the promise that he had buyers coming and they would
5 soon turn a profit, the Properties would still be in a dilapidated and uninhabitable state. And had Ms.
6 Mason not made the effort to find renters for the Properties, there would be no rental income to speak
7 of. Plaintiff has made no showing that he would have repaired the Properties himself, and, in fact, the
8 evidence shows that Plaintiff did not have the money to pay for the repairs which is why he insisted
9 that Ms. Mason do so. The evidence also shows that Plaintiff's clients, who were purportedly
10 interested in the Properties, never materialized and likely never existed in the first place. Thus,
11 Plaintiff is not entitled to money damages in the form of loss in rental income. Nor is Plaintiff entitled
12 to punitive damages—it is Plaintiff, not Ms. Mason, whose conduct can be described as “outrageous”
13 and done with “reckless indifference for the rights of others.” *See Cho v. Cho*, 2002 MP 24 ¶ 9.

14 Because Plaintiff's unjust enrichment claim is predicated on the exact same factual
15 underpinnings as his trespass claim, and because the doctrine of unclean hands applies equally to
16 Plaintiff's unjust enrichment claim, Plaintiff is also foreclosed from recovering on this claim. *See*
17 *Cleary v. Philip Morris Inc.*, 656 F.3d 511, 517 (7th Cir. 2011) (“[I]f an unjust enrichment claim rests
18 on the same improper conduct alleged in another claim, then the unjust enrichment claim will be tied
19 to this related claim — and, of course, unjust enrichment will stand or fall with the related claim”).

20 **D. Ms. Mason's Breach of Contract Counterclaims for Recovery of the \$30,000 She**
21 **Loaned to Mr. Tang and Recovery of the \$70,000 She Spent on Renovations**

22 As previously outlined, a claim for breach of contract in the CNMI requires demonstrating: (1)
23 the existence of a valid contract; (2) the breach of an obligation imposed under the contract; and (3)
24 damage to the plaintiff resulting from the breach. *Tang's Corp.*, 2021 U.S. Dist. LEXIS 186184, *11.

1 “[T]he formation of a contract requires a bargain in which there is a manifestation of mutual assent to
2 the exchange and a consideration.” *Markoff*, 2016 MP 7 ¶ 10. Mutual assent is “[a] distinct
3 understanding common to both parties.” *Simmons*, 2017 U.S. Dist. LEXIS 80963, *5. Mutual assent
4 or a “meeting of the minds” must occur on every material term in the contract. *Id.* A contract that is
5 vague or indefinite in its terms will not be legally binding on the parties. *Reserves Mgmt., LLC v. Am.*
6 *Acquisition Prop. I, LLC*, 2014 Del. LEXIS 90, *27 (2014). The material terms of a contract are vague
7 or indefinite if they “cannot provide a reasonable standard for determining when a breach has
8 occurred.” *Id.*

9 As an initial matter, the statute of frauds⁶ is not applicable as to Ms. Mason’s \$30,000 loan to
10 Mr. Tang, nor is it applicable as to the \$70,000 that she spent renovating the Properties. The fact that
11 these oral agreements were not put in writing will not, in and of itself, bar Ms. Mason from recovery
12 on otherwise valid and enforceable agreements.

13 The Court struggles, however, to find that a valid and enforceable contract existed with regard
14 to the \$30,000 loan where the terms of the alleged agreement are too vague and indefinite to be legally
15 binding. For instance, it is unclear by when, exactly, Mr. Tang was supposed to repay Ms. Mason the
16 \$30,000. What date would have triggered a default under the loan and opened the door for legal
17 recourse? Ms. Mason testified that Mr. Tang promised to pay her back “very soon,” initially, and then,
18 later, after he sold the Fina Sisú and PIC Properties. But these vague and indefinite promises do not
19 “provide a reasonable standard for determining when a breach has occurred,” *Reserves Mgmt., LLCI*,
20 2014 Del. LEXIS 90, *27, particularly given that Mr. Tang failed to sell the Properties at all. The

21
22 ⁶ The statute of frauds generally requires the following types of contracts to be in writing to be legally binding: (1) any
23 promises made in connection to marriage; (2) contracts that cannot be completed in less than one year; (3) contracts for
24 the sale of land; (4) promises to pay an estate’s debt from the personal funds of an executor; (5) contracts for the sale of
goods above a specific dollar amount; and (6) contracts in which one person promises to pay back the debt of another
person (*i.e.*, surety). Ms. Mason’s \$30,000 loan to Mr. Tang does not fall under any of these categories. The \$70,000 that
Ms. Mason spent on renovations pursuant to Mr. Tang’s request does not fall under any of these categories either.

1 Court cannot say there was a “meeting of the minds” between the parties as to this essential term of
2 the purported loan agreement.

3 The Court is even less able to grasp any definite terms of the alleged agreement that led to Ms.
4 Mason spending \$70,000 of her own money to renovate the Properties. Ms. Mason testified that Mr.
5 Tang asked her to renovate the Properties (1) so that he could sell them more easily and at a higher
6 price, and (2) because Mr. Tang did not have the money to do so himself. In turn, Ms. Mason would
7 recoup all of the money she spent and earn a large commission in an undetermined amount. It is
8 entirely unclear, however, how much money the parties agreed Ms. Mason should spend on repairs
9 and, again, by when Mr. Tang was supposed to pay Ms. Mason back. What date would have triggered
10 a default under this agreement and opened the door for legal recourse? The Court cannot characterize
11 this vague and indefinite joint venture between the two as a valid and enforceable contract.

12 For the above reasons, Ms. Mason has failed to meet her burden of proving the elements of
13 her breach of contract counterclaims against Mr. Tang. Accordingly, she is not entitled to a remedy
14 under contract law.

15 **E. Ms. Mason’s Unjust Enrichment Counterclaims for Recovery of the \$30,000 She**
16 **Loaned to Mr. Tang and Recovery of the \$70,000 She Spent on Renovations**

17 Unjust enrichment is a cause of action to correct a defendant’s unjust retention of a benefit
18 owed to another. *Wright v. Genesee Cty.*, 504 Mich. 410, 417 (2019). It is grounded in the idea that
19 a party “shall not be allowed to profit or enrich himself inequitably at another’s expense.” *Id.* at 417-
20 18. A cause of action for unjust enrichment is not based on, and does not otherwise arise out of, a
21 written contract. *Federal Deposit Ins. Corp. v. Dintino*, 167 Cal. App. 4th 333, 346 (2008). Rather,
22 unjust enrichment is a common law obligation implied by law based on the equities of a particular
23 case and not on any contractual obligation. *Id.*

1 The remedy for unjust enrichment is restitution. *Wright*, 504 Mich. at 418; *see also*
2 Restatement (Third) of Restitution and Unjust Enrichment § 49 (2011) (“A claimant entitled to
3 restitution may obtain a judgment for money in the amount of the defendant’s unjust enrichment.”).
4 Restitution is designed to restore the aggrieved party to his or her former position by return of the
5 thing or its equivalent in money. *Dintino*, 167 Cal. App. 4th at 346.

6 To prove a claim for unjust enrichment in the CNMI, a claimant must show: (1) the defendant
7 was enriched; (2) the enrichment came at the plaintiff’s expense; and (3) equity and good conscience
8 militate against permitting the defendant to retain what the plaintiff seeks to recover. *Syed v. Mobil*
9 *Oil Mariana Islands, Inc.*, 2012 MP 20 ¶ 41 (citing Restatement (Third) of Restitution and Unjust
10 Enrichment § 1 (2011)).

11 All three elements are met with regard to Ms. Mason’s claim to recover the \$30,000 she loaned
12 Mr. Tang. First, the evidence shows that Mr. Tang was enriched when he received and retained
13 \$30,000 cash from Ms. Mason. Second, the evidence shows that this benefit to Mr. Tang came out of
14 Ms. Mason’s pocket and at her expense. Finally, the Court finds that equity and good conscience
15 militate against permitting Mr. Tang to retain the \$30,000, particularly where it was obtained by
16 fraudulent means.

17 All three elements are also met with regard to Ms. Mason’s claim to recover the \$70,000 she
18 spent on renovating the Properties. First, the Properties, which were formerly dilapidated and
19 uninhabitable, are more valuable today because of the time, effort, and money Ms. Mason put into
20 renovating them. Mr. Tang, who seeks to recover possession of these Properties, will undoubtedly be
21 enriched by Ms. Mason’s improvements to the Properties. Second, this benefit to Mr. Tang came out
22 of Ms. Mason’s pocket and at her expense. Finally, the Court finds that equity and good conscience
23 militate against permitting Mr. Tang to retain the value of Ms. Mason’s \$70,000 investment in
24 renovating the Properties, particularly where the renovations were obtained by fraudulent means.

1 In order to restore Ms. Mason to her former position, Mr. Tang is ordered to pay Ms. Mason
2 \$100,000.00, which is the total amount by which he was unjustly enriched.

3 **IV. CONCLUSION**

4 **THEREFORE**, for the reasons stated above, it is **ORDERED** that:

- 5 1. Plaintiff's Motion to Strike Portions of Ms. Mason's Testimony is **DENIED**.
- 6 2. Judgment shall be entered in favor of Ms. Mason and against Mr. Tang for the
7 amount of \$100,000.00. Ms. Mason is entitled to the statutory post-judgment interest
8 effective as of the date of this Order.
- 9 3. Ms. Mason and Ms. Guo shall bear no liability to Mr. Tang.
- 10 4. Ms. Mason and Ms. Guo are awarded reasonable attorneys' fees and costs.
11 Defendants shall submit their claim for reasonable attorneys' fees and costs within
12 **fourteen (14) days** of this Order.
- 13 5. The Court shall consider further order as to the possible return of the PIC Property
14 and Fina Sisu Property to Mr. Tang after Mr. Tang informs the Court of his ability to
15 pay the judgment against him.
- 16 6. The Court shall retain jurisdiction for the enforcement of this Order.

17
18 **IT IS SO ORDERED** this 20th day of September, 2023.

19
20 /s/
21 **ROBERTO C. NARAJA**, Presiding Judge