

**IN THE COURT OF APPEALS
OF THE
STATE OF MISSISSIPPI
NO. 96-CA-00059 COA**

RALPH N. MORIN

APPELLANT

v.

LINDA KAY LANGFORD

APPELLEE

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION AND MAY NOT BE CITED,
PURSUANT TO M.R.A.P. 35-B

DATE OF JUDGMENT:	6/13/95
TRIAL JUDGE:	HON. THOMAS WRIGHT TEEL
COURT FROM WHICH APPEALED:	HARRISON COUNTY CHANCERY COURT
ATTORNEY FOR APPELLANT:	DAVID P. OLIVER
ATTORNEY FOR APPELLEE:	D. SCOTT GIBSON
NATURE OF THE CASE:	CIVIL - CONTRACT
TRIAL COURT DISPOSITION:	CHANCELLOR FOUND THAT NEITHER A PARTNERSHIP NOR JOINT VENTURE EXISTED BETWEEN APPELLANT AND APPELLEE AND CONFIRMED APPELLEE'S OWNERSHIP OF BUSINESS KNOWN AS "THE BAR"
DISPOSITION:	AFFIRMED -2/10/98
MOTION FOR REHEARING FILED:	
CERTIORARI FILED:	
MANDATE ISSUED:	3/30/98

BEFORE BRIDGES, C.J., COLEMAN, AND SOUTHWICK, JJ.

COLEMAN, J., FOR THE COURT:

This case comes before the Court on appeal from a judgment of the Chancery Court of the First Judicial District of Harrison County, Mississippi, in which the chancellor held that neither a partnership nor a joint venture existed between Ralph N. Morin, the appellant, and Linda Kay Langford, the appellee, in a beer bar named appropriately enough "The Bar." The chancellor also confirmed that the appellee, Linda Kay Langford, was the sole owner of the business. Accordingly, the chancellor denied Morin's request for an accounting, return of specified property in the bar, punitive damages, attorney fees, and pre-judgment interest. Instead, the chancellor ordered Langford to pay Morin the remainder of the purchase price of "The Bar" which amounted to \$5,300. Morin

appeals to ask that the judgment be reversed; we affirm.

I. FACTS

"The Bar" is a beer bar located at the corner of Dedeaux and Klein in the Bel-Aire Shopping Center in Gulfport. John Oglialoro sold The Bar to the appellant, Ralph Morin, who opened it under his ownership January 2, 1990. Morin paid Oglialoro approximately \$4,500 for The Bar. Included in the consideration of \$4,500 was Morin's forgiveness of Oglialoro's debt owed to Morin of several hundred dollars. For the same consideration, Oglialoro sold Morin the contents of the building, which included a stove, a refrigerator, a desk, tables, chairs, and a couple of booths. Oglialoro continued to run The Bar for Morin after January 2, 1990. In fact, both the beer license and the lease for the premises which The Bar occupied remained in Oglialoro's name after the sale. After Morin bought The Bar from Oglialoro, he installed a draft beer machine, a stand-up cooler, flooring on the dance floor, and new bar stools.

Inside The Bar were several amusement devices, including two pool tables, a compact disc juke box, and a video poker game. The Three R's Amusement Company (Three R's), which Morin owned as an unincorporated proprietorship, owned these amusement devices. Three R's rented these amusement machines to bars and other businesses in return for renters' splitting the gross cash intake from the machines on a fifty-fifty basis or, in the case of the compact disc jukebox, on a sixty-forty basis. Morin and Oglialoro had become business acquaintances through Morin's weekly calls to divide the cash flow from these machines. Their relationship also generated Morin's loans to Oglialoro.

Sometime during the period from April through June of 1990, Oglialoro, as manager of The Bar, hired the appellee, Linda Kay Langford, as a bartender and/or barmaid. When Morin testified, he explained that he approved Oglialoro's hiring Langford because she "look[ed] like she[] [would] help draw customers." Through Oglialoro, Morin promised to pay Langford \$250 per week and further promised her "a decent living."

On November 5, 1991, Morin was arrested and confined in the jail in St. Tammany Parish, Louisiana, on the charge that he had murdered his business partner, Leo Hart. Morin remained incarcerated in jail for more than twenty-one months until August 15, 1993, when he was released, apparently because of a lack of evidence of his guilt of having murdered Hart. Leo Hart was Morin's partner in three bars in Louisiana, and he may have been Morin's partner in Three R's.

Morin and his wife, Linda Dontay Morin, were divorced by judgment of divorce which the Twenty-Second Judicial District Court in St. Tammany Parish rendered on February 28, 1992. On that date, Morin remained a prisoner in the St. Tammany Parish Jail. The judgment of divorce recites that Morin "ha[d] agreed to transfer his interest in the Three R's Amusement Company, community property, to Plaintiff, Linda Dontay Morin, for payment of alimony and child support." Ms. Morin, who later adopted her former name of Linda Dontay, changed the Three R's Amusement Company's name to Southeast Amusements. After he was released from jail, Morin began working with his former wife at Southeast Amusements and later returned to Gulfport. Morin was given a key to The Bar supposedly so that he would be able to maintain and collect the money from the coin-operated machines which now belonged to Southeast Amusements.

In July 1994, Morin, his former wife, and their friends were playing one of the coin-operated video

poker machines in The Bar when Langford walked in and saw Morin unlock the poker video player, take money out of the machine, and give it to his former wife or their friends. Langford testified that she interpreted what she saw as gambling on the video poker machine, which she knew was illegal. As a result, Langford told Morin to leave and never to return to The Bar. Sometime later that year, while he was at his shop, which was next door to The Bar, Mike Tramane, an employee of The Bar who knew Morin, brought the coin-operated amusement devices inside The Bar to Morin, who remained outside the entrance to The Bar.

II. LITIGATION

A. Pre-trial

On August 8, 1994, Morin filed a complaint against Linda Kay Langford in which he alleged that she breached their contract and requested an accounting of the business he claimed she managed in his behalf. In this complaint, Morin asserted that he was the sole owner of an establishment known as "The Bar." Langford responded with general denials, several affirmative defenses, and a motion requesting a more definite statement. Morin complied with Langford's motion for a more definite statement by filing an amended complaint in which he suggested, but did not specifically plead, that a partnership existed between Langford and him with regard to running the business known as "The Bar." Morin again requested that he be declared the sole owner of "The Bar" and that he be paid an amount equal to all of the profits of the business. Langford once again responded with general denials and several affirmative defenses.

On December 15, 1994, Morin filed a motion to file a second amended complaint. Although he never formally filed his second amended complaint, the chancellor ultimately entered an order which deemed him to have filed the second amended complaint. In his second amended complaint Morin specifically pleaded that "from January, 1990, until July, 1994, there existed a partnership between [Langford and him]." Morin then requested an accounting and other relief from Langford if the court found that a partnership had existed between them. Langford answered the second amended complaint in the same manner as she had answered Morin's prior complaints.

B. Trial

Morin testified first. We recite those portions of his testimony which amplify or explain our previous recitation of the facts in this opinion. Morin testified that from January of 1991 until November of 1991, he owned The Bar and that both Langford and another person, Charlotte Lizana, whom he "really considered [his] manager," ran the business for him during this period of time until his arrest and imprisonment in Louisiana. Langford and he had maintained a joint checking account in the Magnolia Bank on which she had written checks to pay The Bar's bills, but that account had been closed on November 8, 1991, three days after Morin had been arrested.

Morin explained that he formed the partnership with Langford during a telephone conversation which occurred after he had been arrested and incarcerated. The purpose of the partnership was "to keep The Bar running." According to Morin, Langford told him during one of their telephone conversations in June or July of 1992 that she had saved \$4,000 from The Bar's proceeds as his one-half of The Bar's profits.

About one month later, Morin inquired of Langford when she was going to send him the \$4,000, to which she replied that she had used the money to buy an antique Volkswagen, which she anticipated selling at a nice profit for both of them. However, Langford never delivered any of this money to Morin. After he had been released from jail, Langford told Morin that she had saved \$2,900 as his half of The Bar's profits which he could use to buy a truck which he needed. However, Langford again defaulted on paying Morin the \$2,900 because she had spent the money to buy a trailer which her children and she needed. Morin claimed that he only received \$700 from The Bar's revenue, but Langford claimed that she had loaned the sum of \$700 to him.

Morin also maintained that three months after his release from jail in Louisiana, Langford gave him a key to The Bar, which he kept until he was thrown out in the summer of 1994 after Langford had observed what she thought was his gambling with the video poker machine. Thus, he had access to The Bar anytime he wanted until Langford took the key away from him. Morin accounted for the beer license's being put in only Langford's name because he understood that he as a resident of Slidell, Louisiana, could not get a Mississippi license in his name.

On cross-examination, Morin admitted that he had no control over the business and that he "didn't have to fool with the books" of The Bar. He further admitted that he called his arrangement with Langford a partnership "on the advice of counsel." He also conceded that he preferred "being a silent partner" in any business. In response to Langford's claim that Morin had sold her The Bar for \$9,200, which he agreed she could pay at the rate of \$100 per month from her share of the rent from the amusement devices, Morin explained that he took \$100 a week from Langford's share of the rental revenue and "put it back in my pocket because [his] pocket [was] where [he] took the money to keep The Bar running." Morin denied that he had anything to do with the manner in which the lease was prepared only in Langford's name, but he admitted that he claimed no interest in the lease to the building which housed The Bar.

Morin called Johnny Oglialoro and Charlotte Lizana, whom Morin considered to be his "real manager," to testify. Morin then called Langford to testify. Langford established that she had first worked for Oglialoro in 1989 when he owned the business, that she quit, and then returned to work in 1990 after Morin had bought The Bar. She confirmed that Oglialoro hired her the second time. Langford's version of the transaction was that Morin sold her The Bar in November 1991 for the price of \$9,200, which she was to pay him out of her one-half of the revenue which the amusement devices in The Bar generated. Langford claimed that she paid Morin \$100 per week for eight months, or a total of \$3,200. She testified that she quit paying him only because Morin told her that she had paid him enough and he forgave the balance of the debt.

Langford stated that after her agreement with Morin, she controlled the cash and that she never had to account to him for it. She admitted that she gave Morin a key to The Bar three months after his release from jail, but she denied that she ever recovered possession of the key, contrary to what Morin had testified. She explained that Morin instructed her to close the checking account in the Magnolia Bank because he and his wife were getting a divorce and he did not want her to be aware of his account in Mississippi. Langford claimed that Morin called Bill Jones, the owner of the shopping center in which The Bar was located, and told him to take Morin's name off of the lease. Langford denied that she had told Morin that she had either \$4,000 or \$2,900 for him as his share of The Bar's profits, although she admitted that she helped him buy a truck after he had been released

from custody in Louisiana.

Morin called Bill Jones, The Bar's landlord, who explained that he had put the lease exclusively in Langford's name at Morin and Langford's request in order that they could get a beer license. Langford was a resident of Harrison County, but Morin was not at that time. Morin rested after he had called Jones.

For her first witness, Langford called Desiree Derouen, who had worked at The Bar since 1991. She testified that when she first started working at The Bar, Langford was buying The Bar from Morin and that she was paying Morin "so much a week." Derouen claimed that she had seen a bill of sale for the business from Morin to Langford, but that she thought that Langford had torn it up because Morin told her to dispose of it. She testified that these events occurred before Morin went to jail in November 1991. Derouen testified that she worked five or six days a week at The Bar from 10:00 a.m. until 5:00 p.m., for which Langford paid her \$35 per day. On cross-examination, Derouen said that she recognized the bill of sale as being in Morin's handwriting and that Morin had never once paid her wages.

Langford also called two of The Bar's patrons, Ricky Joseph Falgout and George Leonard Seitzinger, both of whom testified that Morin had told them that he had sold, or given, The Bar to Langford. Seitzinger elaborated that Morin told him he sold The Bar to Langford because "[h]e was tired of it," and that Morin had stipulated with Langford that "he was going to leave some machines in there, which they stayed."

Pursuant to his consideration of the foregoing testimony, the chancellor entered a judgment on June 13, the day after he had conducted the hearing. In that judgment, the chancellor made such findings of fact which he deemed relevant to his resolution of the issues presented by Morin and Langford and then ordered the following:

[Morin's] request is denied as regards to his complaint for ownership, partnership, and joint venture; [Morin's] request is also denied as to accounting, return of property, punitive damages, pre-judgment interest, and attorney's fees.

Linda Kay Langford is found to be the owner of that business known as "The Bar."

Linda Kay Langford owes . . . Ralph Morin the sum of \$5,300.00, which represents the purchase price of \$9,200, minus the payments of \$3,200 and minus the \$700. [Morin] is granted a judgment in this amount, payable at the rate of \$100.00 per week, beginning the first Friday in July, 1995, and continuing for the next 52 weeks.

The chancellor also ordered Morin to return to Langford certain items which she testified Morin had included in the sale of The Bar to her, including "the cherry master videos, the draft box with two taps, and any other equipment in his possession . . ." Morin filed a motion for reconsideration of that judgment, which the chancellor denied. Morin appeals from the judgment which the chancellor rendered on June 13, 1995.

III. REVIEW, ANALYSIS, AND RESOLUTION OF THE ISSUE

We quote Ralph Morin's issue from his brief verbatim:

The lower court erred in not granting Ralph Morin, appellant herein, an equitable lien or equitable interest in an establishment named "The Bar" and further erred in not finding that a joint ventureship [sic] or partnership existed providing him with the remedies as so provided for by the Uniform Partnership Act of the State of Mississippi and that the appellee, Linda Kay Langford, has been unjustly enriched.

A. STANDARD OF REVIEW

When the issue, as in this case, is whether a partnership existed between two parties, the appropriate standard of review is the substantial evidence/manifest error rule, *Century 21 Deep South Properties v. Keys*, 652 So. 2d 707, 714 (Miss. 1995), which is the general standard of review for a trial where a chancellor sits as fact finder. *Smith v. Redd*, 593 So. 2d 989, 993 (Miss. 1991). Even where there is conflicting testimony, the chancellor's finding will be affirmed unless it is manifestly wrong, *Devereaux v. Devereaux*, 493 So. 2d 1310, 1312 (Miss. 1986), for the "chancellor's finding of fact is equivalent to a jury verdict upon conflicting evidence." *Duane v. Saltaformaggio*, 455 So. 2d 753, 757 (Miss. 1984).

Morin's one issue actually includes three issues. The three issues are: (1) Were Morin and Langford partners or joint venturers in the business named "The Bar"? (2) Was Langford unjustly enriched because she kept Morin's share of the profits from the operation of The Bar? and (3) Did the chancellor err when he failed to grant an equitable lien or equitable interest in The Bar? We begin our review of Morin's issue with an analysis and resolution of the question of whether the chancellor erred when he found that Morin and Langford were neither partners nor joint venturers in the business known as "The Bar."

B. DISCUSSION OF THE LAW OF PARTNERSHIP

Section 79-12-11 of the Mississippi Code defines a partnership as "as association of two (2) or more persons to carry on as co-owners a business for profit." **Miss. Code Ann. § 79-12-11 (Rev. 1996).** In essence, there is virtually no difference between partnerships and joint ventures except that a joint venture has a limited scope as it pertains only to a specific business deal. *Hults v. Tillman*, 480 So. 2d 1134, 1141 (Miss. 1985). Consequently, there is no difference in how the law determines the existence of either one. *Hults*, 480 So. 2d at 1141. *See also Duggins v. Guardianship of Washington*, 632 So. 2d 420, 427 (Miss. 1993) (stating that Mississippi Uniform Partnership Law applies to joint ventures as well as partnerships). As a result, we will not discuss partnerships and joint ventures separately. Instead, our analysis applies equally to both partnerships and joint ventures. When determining the existence or non-existence of a partnership or a joint venture, the rules outlined in Section 79-12-13 control. *Smith*, 593 So. 2d at 993. The rules are as follows:

In determining whether a partnership exists, these rules shall apply:

(2) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or party ownership does not of itself establish a partnership, whether such co-owners do or do not share any profits made by the use of the property.

(3) The sharing of gross returns does not of itself establish a partnership, whether or not the persons sharing them have a joint or common right or interest in any property from which the

returns are derived.

(4) The receipt by a person of a share of the profits of a business is prima facie evidence that he is a partner in the business, but no such inference shall be drawn if such profits were received in payment:

- (a) As a debt by installments or otherwise,
- (b) As wages of an employee or rent to a landlord,
- (c) As an annuity to a widow or representative of a deceased partner,
- (d) As interest on a loan, though the amount of payment varies with the profits of the business,
- (e) As a consideration for the sale of the goodwill of a business or other property by installments or otherwise.

Miss. Code Ann. § 79-12-13 (Rev. 1996). See *Smith*, 593 So. 2d at 993; *Century 21*, 652 So. 2d at 714-5.

Sections 79-12-11 and 79-12-13 are part of the Mississippi Uniform Partnership Law (MUPL), Miss. Code Ann. §§ 79-12-1 to 119 (Rev. 1996), which was adopted in 1976. ***Hults*, 480 So. 2d at 1144; *Allied Steel Corp. v. Cooper*, 607 So. 2d 113, 116 (Miss. 1992).** One of the purposes of the adoption of MUPL was to codify the common law rules regarding partnerships into one uniform group. ***Hults*, 480 So. 2d at 1144.** However, these statutes are still supplemented by existing common law where the goal is to determine whether a partnership in fact exists. ***Smith*, 593 So. 2d at 993.** Specifically, the main factors which are considered in determining the existence of a partnership are "(1) the intent of the parties, (2) the control question, and (3) profit sharing." ***Id.* at 994.**

1. Intent

The alleged partners must have intended to form a partnership in order for one to come into existence. ***Smith*, 593 So. 2d at 994.** The law does not require the parties to express this intention through a written agreement. ***Id.*; *Century 21*, 652 So. 2d at 715.** Instead, a partnership may be implied or inferred from the circumstances surrounding the parties' business dealings. ***Smith*, 593 So. 2d at 994.** However, this intent must be "established by the proof" proffered in the case. ***Id.***

In his brief Morin "respectfully submits that it is irrefutable that the parties intended to act jointly together." He then cites the following question to and answer of Bill Jones, The Bar's landlord, to support his assertion "that it is irrefutable that the parties intended to act jointly together":

Q. Why did [Morin] bring Ms. Kay Langford there to enter into a lease agreement?

A. That was a business agreement between the two of them, at the time, as far as I know, which I don't know all the details on that. Now, there was a time-- there was a point there where instead of the two of them, there was a lease made to Ms. Langford straight out at their request, and this was, as I was told, in order to get a beer license, which she was a resident here in this county, and Mr. Morin was not at that time.

However, this Court further notes the question to and answer of Bill Jones, which immediately follows this question and answer, but to which Morin does not refer in his brief:

Q. Who told you who owned The Bar at that time?

A. Well, I know that it started out Ralph had it. You know, Mr. Morin had it. And then I don't know. Of course, I'm not privy to all their private agreements between the two of them I wasn't privy-- I don't know their agreement or how all that transpired or whatever.

Even The Bar's landlord admitted that he was not privy to all the private agreements of Morin and Langford. Contrary to Morin's interpretation of Jones's one answer, the record contains substantial evidence of Morin's intent to sell The Bar to Langford. For example, Langford testified that she was to pay Morin \$9,200 for the business at the rate of \$100 per week which was to be taken from her fifty-percent share of the revenue generated by the amusement devices inside The Bar. Morin admitted that he was taking \$100 per week from Langford's share of these revenues, although his explanation for why he did it differed from Langford's. Moreover, two witnesses, Ricky Joseph Falgout and George Leonard Seitzinger, testified that Morin told them that he had sold The Bar to Langford. Seitzinger added information about the terms of the sale which Morin had told him. No doubt, the chancellor took note of Morin's testimony that "[u]nder advice of my counsel, I call it a partnership. Personally I feel as though I own The Bar."

Morin's disclaimer of any interest in the lease for The Bar is reminiscent of *Hults v. Tillman*, in which the Mississippi Supreme Court reversed a chancellor's finding that a joint venture existed between the two parties to the case. **480 So. 2d at 1147**. The supreme court opined:

Until Tillman went to court he never asserted any ownership or interest in the dirt contract. His interest was as a creditor of Hults for a portion of the proceeds, as agent receiving his commission. *He undertook none of the liabilities or obligations of the lease. This was inconsistent with any person claiming a co-ownership in the contract, and unequivocally reveals Tillman never considered himself a joint venturer, or made any claim as such, until post facto it appeared in his interest to do so.*

Id. (emphasis added). Morin's position in this litigation seems similar to the position of Tillman in *Hults*. The chancellor found in the judgment "that there could not be any partnership or joint venture, of any kind, under Miss. Code § 67-3-27 (1972) unless those other persons are noted on the [beer] permit and lease." The chancellor then noted "that the [beer] permit and lease have been in Linda Langford's name since 1991." There was substantial evidence to support the chancellor's finding that Morin intended to sell The Bar to Langford but not to create a partnership with her.

2. Control

Shared control is the next factor for determining whether a partnership or joint venture exists. *Smith*, **593 So. 2d at 994**; *Century 21*, **652 So. 2d at 715**. Morin argues in his brief that "it is irrefutable by the testimony of practically every witness that Ralph N. Morin and Linda Kay Langford had equal access to . . . The Bar with the exception of the time [when] Mr. Morin was incarcerated at the St. Tammany Parish Jail" He cites the following question to him and his following answer to that question to support his contention that there was substantial evidence to support his control of The

Bar's business:

Q. What else would you do?

A. I've stocked; I've opened The Bar; made banks when nobody's showed up. When she'd want to go out of town, I would take care of The Bar during that week. Just whenever she wasn't there, I could handle it.

Morin also stresses that Langford had given him a key to The Bar, which allowed him access to it at any time. However, Langford explained that she had given Morin the key to expedite his collection of the revenue which the coin-operated amusement machines had generated, and that while she had barred Morin from entering The Bar, Morin had never returned the key to her. She added that five or six other employees had a key to The Bar. However, Morin did not know the code to deactivate the burglar alarm.

Langford presented substantial evidence to show that Morin had no control over the business of The Bar. Langford and her employees ordered the stock for the bar, and Langford kept the books for the business and paid the employees and bills. Moreover, she determined who was hired or fired, how the profits from the business were spent, and which improvements were made. There is no evidence that after the sale of The Bar to Langford, according to Langford's evidence, that Morin ever made any of the business or management decisions. However, this Court recognizes that Morin's "lack of control is not enough by itself to disprove partnership." *Century 21, 652 So. 2d at 715*. While shared control is an important factor in determining whether a partnership exists, it is not always present in partnerships and similar business relationships. *Smith, 593 So. 2d at 994*. As a result, "[c]ontrol by itself is not the exclusive indicator of partnership." *Id.*

3. Profit Sharing

While intent of the parties to form a partnership and shared control are indicative of the formation of a partnership, the most important factor, by far, in determining whether a partnership exists is profit sharing. *Century 21, 652 So. 2d at 715*. In fact, Section 79-12-13(4) states that profit sharing is prima facie evidence of the existence of a partnership. **Miss. Code Ann. § 79-12-13(4) (Rev. 1996); *Smith, 593 So. 2d at 994***. Morin argues that because he had access to the cash register, "there clearly was the motivation for profit or division of monies." He suggests that the following question posed to him and his answer "bear this out":

Q. Okay, then. All right. Now, you've mentioned twice that she had talked to you about some money that she was saving that she was going to give to you. What agreement did you have, if any, concerning the split in the profits or any division of profits, if any?

A. That I was supposed to get half of-- I'm the partner. I was supposed to get half of any of the profits, and that's after her salary . . . or whatever she held out.

Morin's argument ignores Langford's denial that she ever agreed to enter a partnership agreement with Morin and her denial that she ever told Morin that she had saved sums of \$4,000 and \$2,900 to give to him as his fifty-percent share of the revenue generated by the operation of The Bar. It is true that Langford admitted that she had helped Morin acquire a truck after his release from jail in

Louisiana, but she denied that any of the proceeds used for its purchase came from Morin's share of the income which The Bar had generated.

Both parties admitted that Langford had also given Morin \$700, but Langford testified that this was a loan to Morin, and Morin agreed with Langford that he received this sum as a loan. If the \$700 was a loan, then, of course, that sum could not also be Morin's share of the profits from the operation of The Bar.

4. Summary

We have reviewed the chancellor's finding that there was neither partnership nor joint venture between Morin and Langford in terms of Morin's argument, which required us to consider the three main factors inherent in the creation of a partnership, which are intent, control, and profit sharing. From our review of the evidence in the record, we have concluded that there was substantial evidence to support the chancellor's finding that Morin and Langford had established neither partnership nor joint venture. Thus, we affirm the chancellor's finding that there was neither partnership nor joint venture formed between Morin and Langford.

However, it appears to this Court that the real issue is whether the chancellor was correct when he found that Linda Kay Langford is the owner of The Bar. Our foregoing review of the evidence pertinent to the three main factors inherent in the creation of a partnership also demonstrated that while Morin denied that he had sold The Bar to Langford, there was substantial evidence to support the chancellor's finding that Morin had indeed sold The Bar to Langford in consideration of her promise to pay him \$9,200 at the rate of \$100 per week from her fifty-percent share of the revenue generated by the coin-operated amusement devices. As the chancellor found in the judgment, "There [was] no paperwork: no bill of sale, no business relationship documents, no canceled checks about purchasing; no bulk sales U.C.C. documents; no documents of any type verifying the stories testified to in court." Regardless of the absence of such paperwork, we affirm the chancellor's adjudication that Morin sold The Bar to Langford and that, therefore, Langford was the sole owner of the business known as "The Bar."

C. MORIN'S OTHER TWO ISSUES

Morin's other two issues are whether Langford was unjustly enriched because she kept Morin's share of the profits from the operation of The Bar and whether the chancellor erred when he failed to grant an equitable lien or equitable interest in The Bar. Morin cites and quotes extensively from ***Koval v. Koval*, 576 So. 2d 134 (Miss. 1991)**, in which the Mississippi Supreme Court dealt with these same issues. Langford responds with the following quotation from ***Alvarez v. Coleman*, 642 So. 2d 361, 367 (Miss. 1994)**, the subject of which is a constructive trust:

A constructive trust is one that arises by operation of law against one who, by fraud, actual or constructive, by duress or abuse of confidence, by commission of wrong, or by any form of unconscionable conduct, artifice, concealment, or questionable means, or who in any way against equity and good conscience, either has obtained or holds the legal right to property which he ought not, in equity and good conscience, hold and enjoy.

(quoting *Planters Bank & Trust Co. v. Sklar*, 555 So. 2d 1024, 1034 (Miss. 1990)) (citations

omitted). The Mississippi Supreme Court then continued:

Constructive trusts are created for the purpose of preventing unjust enrichment, whereby one unfairly holding a property interest may be compelled to convey that interest to whom it justly belongs.

***Alvarez*, 642 So. 2d at 367.**

Langford then argues, as this Court has already found, that "[t]here is substantial evidence in the record of the trial of this case that Kay Langford purchased the business from Ralph Morin." Langford contends that Morin presented no evidence that she acted wrongly in obtaining and maintaining the lease on the premises from and after 1991 or the permits to sell and licenses to sell beer from the State of Mississippi from and after January 1991." Langford concludes that the evidence shows nothing more than the fact that she purchased the business in good faith from Morin in 1991 and that she took appropriate steps to continue to operate the business by obtaining control of the business premises through a lease agreement with Bill Jones, the landlord, and in complying with state law by obtaining the necessary permits and licenses to sell beer within those premises.

Langford also argues that unjust enrichment is not an issue in this litigation because the chancellor ordered her to pay the balance of the full purchase price of \$9,200, as we previously noted, even though Langford had testified that Morin had forgiven the balance of that debt. We agree with Langford's arguments on both of these two issues and thus resolve them adversely to Morin.

V. CONCLUSION

As always, this Court gives great deference to findings of fact made by the chancellor. ***McElhaney v. City of Horn Lake*, 501 So. 2d 401, 403 (Miss. 1987)** (opining that "[w]here there is conflicting evidence we must give great deference to the chancellor's findings"). Langford proffered evidence, which this Court considers to be substantial, to show that, as between Morin and Langford, there was no intent to form a partnership, no mutual control of the business, and no profit sharing. Thus, this Court concludes that the chancellor was not manifestly wrong in his findings of fact, which it finds were supported by substantial evidence; neither did the chancellor apply an erroneous legal standard in resolving the issues which Morin presented to him. Therefore, we affirm.

**THE JUDGMENT OF THE HARRISON COUNTY CHANCERY COURT IS AFFIRMED.
COSTS OF THIS APPEAL ARE ASSESSED TO THE APPELLANT.**

**BRIDGES, C.J., McMILLIN, P.J., DIAZ, HERRING, HINKEBEIN, KING, PAYNE, AND
SOUTHWICK, JJ., CONCUR. THOMAS, P.J., NOT PARTICIPATING.**