

IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM MILLER,
Appellant,
vs.
KENNETH BAKER,
Respondent.

No. 43735

FILED

MAY 17 2006

BY Janette A. Bloom
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from the district court's findings of fact, conclusions of law, and judgment quieting title and ordering specific performance in favor of respondent Kenneth Baker, and an order denying appellant William Miller's motion to correct the judgment in a real estate contract action. Eighth Judicial District Court, Clark County; Stewart L. Bell, Judge. Because we conclude that Baker proved that he had partially performed the terms of the oral contract and that substantial evidence supports the district court's remaining conclusions, we affirm the district court's findings of fact, conclusions of law, and judgment and affirm the district court's order denying Miller's motion to amend or alter the judgment.

The party seeking enforcement of an oral contract for a conveyance of an interest in land exceeding one year under theories of partial performance or promissory estoppel must establish these claims by an "extraordinary measure or quantum of evidence."¹ We conclude that

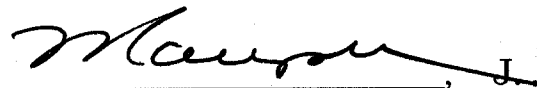
¹Zunino v. Paramore, 83 Nev. 506, 509, 435 P.2d 196, 197 (1967); accord Summa Corp. v. Greenspun, 96 Nev. 247, 253, 607 P.2d 569, 572 (1980), rev'd on other grounds, 98 Nev. 528, 655 P.2d 513 (1982).

an extraordinary quantum of the evidence clearly and definitely established the terms of the oral contract and Baker's partial performance.

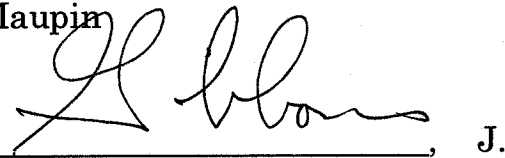
Moreover, substantial evidence supports the district court's conclusion that Miller's execution upon an eviction order that he knew or should have known to be erroneous was a willful use of the legal process in furtherance of his ulterior purpose. Despite being present when the justice court dismissed his summary eviction action, Miller returned to the constable's office for the sole purpose of instituting another summary eviction proceeding against Baker. We conclude that the district court reasonably inferred from Miller's testimony that his actions were willful. Miller's persistence in pursuing the summary eviction demonstrates that he sought to bypass the regular conduct of the quiet title action pending in the district court. We further conclude that Miller's remaining contentions are without merit.

Accordingly, we

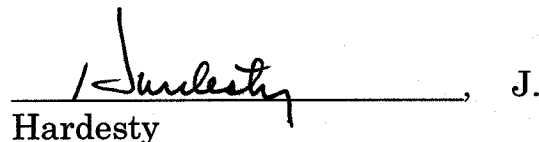
ORDER the judgment of the district court AFFIRMED. We further AFFIRM the district court's order denying Miller's motion to correct the judgment.



Maupin



Gibbons



Hardesty

cc: Hon. Stewart L. Bell, District Judge
Christopherson Law Offices
Cooper Christensen Law Firm, LLP
Clark County Clerk