

IN THE SUPREME COURT OF THE STATE OF NEVADA

HORIZON JUNCTION, LLC, A
NEVADA LIMITED LIABILITY
COMPANY,
Appellant/Cross-Respondent,

vs.

HORIZON VILLAGE SQUARE, LLC, A
NEVADA LIMITED LIABILITY
COMPANY; AND B/W INVESTMENTS,
LLC, A NEVADA LIMITED LIABILITY
COMPANY D/B/A BUFFALO WILD
WINGS GRILL AND BAR,
Respondents/Cross-Appellants.

No. 44484

FILED

DEC 06 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *E. Wasado*
DEPUTY CLERK

ORDER AFFIRMING IN PART, REVERSING IN PART AND
REMANDING

This is an appeal and cross-appeal from a district court judgment in a real property dispute. Eighth Judicial District Court, Clark County; Mark R. Denton, Judge.

On July 24, 2007, this court entered an order remanding this case for the district court to enter an order as to whether Horizon Junction, LLC, (Junction) has standing to bring the claims underlying its appeal. On limited remand, the district court found that Junction had standing.

On appeal, Junction argues that it has standing because it is a real party in interest with respect to the Horizon purchase agreement and because it retains an interest in property that is benefited by the restrictions in the declaration. We disagree. In its cross-appeal, Village Square argues that its appeal is timely and the district court erred in

granting summary judgment as to its claim of interference with prospective economic advantage.¹ We agree. The parties are familiar with the facts; therefore we do not recount them in this order except as is necessary for our disposition.

Standard of review

“On appeal, this court will not disturb a district court’s findings of fact if they are supported by substantial evidence. However, the district court’s conclusions of law are reviewed de novo.”² We review the district court’s grant of summary judgment de novo.³

Horizon Junction’s standing

This court has concluded that the issue of standing is similar to the issue of whether a party is a “real party in interest” under NRCP 17(a)⁴ because standing “focuses on the party seeking adjudication rather

¹Village Square attempts to challenge the district court’s denial of its motion for attorney fees. However, no formal written order denying attorney fees is included in the record. Therefore, we need not address this issue. See Rust v. Clark Cty. School District, 103 Nev. 686, 689, 747 P.2d 1380, 1382 (1987) (providing that “[a]n oral pronouncement of judgment is not valid for any purpose. . . ; therefore, only a written judgment has any effect, and only a written judgment may be appealed”); cf. State, Div. Child & Fam. Servs. v. Dist. Ct., 120 Nev. 445, 454, 92 P.3d 1239, 1245 (2004) (noting that “oral court orders pertaining to case management issues[and] scheduling . . . are valid and enforceable”).

²Keife v. Logan, 119 Nev. 372, 374, 75 P.3d 357, 359 (2003) (footnote omitted).

³Wood v. Safeway, Inc., 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005).

⁴NRCP 17(a) provides that “[e]very action shall be prosecuted in the name of the real party in interest.”

than on the issues sought to be adjudicated.”⁵ Therefore, “[a] party enjoys standing to bring his complaint into court if his stake in the resolution of that complaint assumes the proportions necessary to ensure that he will vigorously present his case.”⁶ Furthermore, “[i]t is a well established principle of contract law . . . that where two interpretations of a contract provision are possible, a court will prefer the interpretation which gives meaning to both provisions rather than an interpretation which renders one of the provisions meaningless.”⁷

In this case, Junction, as a party to the Horizon purchase agreement, was a real party in interest regarding enforcement of the contract, when the parties entered the agreement, because Junction was an “owner” under the declaration, which the Horizon purchase agreement incorporated. However, when the Horizon purchase agreement incorporated the declaration, it also incorporated the provision that required a party to be an “owner” to enforce the provisions, and Junction is no longer an owner. Furthermore, to conclude that the Horizon purchase agreement provides standing for Junction, a nonowner, to enforce the provisions, would render meaningless the declaration’s provision that only

⁵Szilagyi v. Testa, 99 Nev. 834, 838, 673 P.2d 495, 498 (1983); see also City of Reno v. Matley, 79 Nev. 49, 59, 378 P.2d 256, 261 (1963) (holding “that the benefit of the covenant of the City of Reno to construct and maintain the street in question runs with the land and that the successors in interest of the original covenantee have standing to enforce the covenant and are real parties in interest”).

⁶Harman v. City and County of San Francisco, 496 P.2d 1248, 1254 (Cal. 1972) cited in Szilagyi, 99 Nev. at 838, 673 P.2d at 498.

⁷Quirrion v. Sherman, 109 Nev. 62, 65, 846 P.2d 1051, 1053 (1993).

an owner can enforce the provisions of the declaration. Therefore, we conclude that Junction lacks standing to enforce any remaining declaration restrictions because it is no longer an owner.

Village Square's claim of interference with prospective economic advantage

Timeliness

Under NRAP 3A(b)(1), an appeal is permitted only “[f]rom a final judgment in an action or proceeding.” An action includes all claims and counterclaims.⁸ Once the district court enters a final judgment in a case, the non-prevailing party as to each claim has “30 days after the date that written notice of entry of the judgment or order appealed from is served” to file a notice of appeal.⁹ Any other party may file a notice of cross-appeal “within 14 days of the date on which the first notice of appeal was served.”¹⁰

In this case, notice of entry of the district court's final order granting summary judgment was served February 10, 2005. Junction filed its re-notice of appeal on February 15, 2005, and served it by mail. Village Square filed its notice of cross-appeal on March 4, 2005. Seventeen days passed between those two events, which is timely under the rules, considering the fourteen days during which Village Square could file its cross-appeal, plus the additional three days allowed for service by

⁸United Ass'n of Journeymen v. Manson, 105 Nev. 816, 820, 783 P.2d 955, 957 (1989) (“Unlike a claim, an action includes the original claim and any crossclaims, counterclaims, and third-party claims.”).

⁹NRAP 4(a)(1).

¹⁰NRAP 4(a)(2).

mail under NRAP 26(c). Therefore, we conclude that Village Square's cross-appeal was timely, and the court has jurisdiction to hear it.

Failure to argue on appeal

The Nevada Rules of Appellate Procedure require the parties to present contentions "with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes and parts of the record relied on."¹¹ If a party fails "to cogently argue, and present relevant authority" on an issue, this court need not address the issue because it is deemed waived.¹²

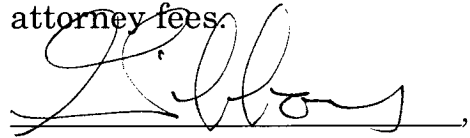
In this case, other than to assert that Village Square's cross-appeal was untimely, Junction failed to address Village Square's contention that the district court erred in granting summary judgment on its claim that Junction had intentionally interfered with its business arrangements with Buffalo by threatening to sue Vons if it agreed to amend the restrictive covenants on the property. Because Junction failed to present relevant authority or a cogent argument on this issue, we deem it waived and need not address it. Accordingly, we

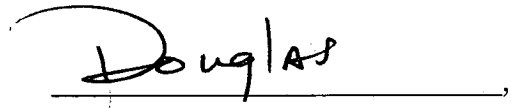
ORDER the judgment of the district court AFFIRMED IN PART AND REVERSED IN PART AND REMAND this matter to the

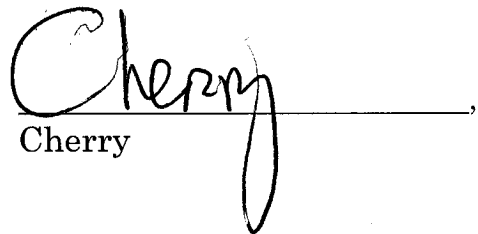
¹¹NRAP 28(a)(4).

¹²Edwards v. Emperor's Garden Rest., 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006); see also Maresca v. State, 103 Nev. 669, 673, 748 P.2d 3, 6 (1987) (concluding that the appellant has the "responsibility to present relevant authority and cogent argument; issues not so presented need not be addressed by this court"); Carson v. Sheriff, 87 Nev. 357, 360-61, 487 P.2d 334, 336 (1971).

district court for proceedings consistent with this order, including whether Village Square should be awarded attorney fees.


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Cherry

cc: Hon. Mark R. Denton, District Judge
Stephen E. Haberfeld, Settlement Judge
Flangas McMillan Law Group, Inc.
Morris Pickering Peterson & Trachok/Las Vegas
Eighth District Court Clerk