

IN THE SUPREME COURT OF THE STATE OF NEVADA

LON HALLS, INDIVIDUALLY,  
Appellant,  
vs.  
ANNIE PHILLIPS, INDIVIDUALLY,  
Respondent.

No. 45425

**FILED**

JUL 12 2006

ORDER OF REVERSAL

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richard*  
CHIEF DEPUTY CLERK

This is an appeal from a district court order granting the respondent's motion for a preliminary injunction that requires the appellant to make payments toward the parties' real property, including one-half of a monthly installment note. Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

Appellant Lon Halls argues that the district court abused its discretion by issuing a preliminary injunction based on five grounds: (1) the respondent, Annie Phillips, did not demonstrate a likelihood of success on the merits; (2) there was no threat of irreparable harm; (3) Phillips had an adequate remedy at law; (4) the matter was moot; and (5) the district court's order failed to adequately state the reasons for the injunction. We assume that the parties are familiar with the facts and do not recite them except as necessary to discuss the disposition of this matter. We conclude that the district court abused its discretion in granting Phillips' motion for a preliminary injunction because she has an adequate remedy at law in the form of compensatory damages.

This court reviews a district court order granting or denying a preliminary injunction for an abuse of discretion.<sup>1</sup> “A preliminary injunction is available if an applicant can show a likelihood of success on the merits and a reasonable probability that the non-moving party’s conduct, if allowed to continue, will cause irreparable harm for which compensatory damage is an inadequate remedy.”<sup>2</sup>

Phillips has an adequate remedy at law, and therefore, the district court abused its discretion in granting her motion for a preliminary injunction. Halls and Phillips jointly purchased commercial real estate in Ely, Nevada, to develop a casino. Both Halls and Phillips contributed to the down payment and signed the deed of trust that required monthly installment payments on the note. Subsequently, a corporation was formed for developing the casino. A dispute arose with respect to an alleged agreement concerning the project’s financing, and as a result, Halls stopped making payments on the installment note or contributing to other costs for the project. At issue then, is Halls’ alleged breach of the parties’ agreement that Halls would help finance the project.<sup>3</sup> The district court’s preliminary injunction effectively forces Halls to continue contributing to the venture by requiring Halls to finance the

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<sup>1</sup>See Attorney General v. NOS Communications, 120 Nev. 65, 67, 84 P.3d 1052, 1053 (2004).

<sup>2</sup>Dangberg Holdings v. Douglas Co., 115 Nev. 129, 142, 978 P.2d 311, 319 (1999); see also NRS 33.010 (codifying these requirements).

<sup>3</sup>Notably, Phillips’ original complaint filed in district court was for, among other things, breach of contract.

parts of the project to which he allegedly agreed. Such mandatory injunctive relief is an inappropriate remedy for the alleged failed agreements<sup>4</sup> because there are adequate remedies at law for such claims.

We are cognizant that “[a]ny act which destroys or results in a substantial change in property, either physically or in the character in which it has been held or enjoyed, does irreparable injury which justifies injunctive relief.”<sup>5</sup> However, this case does not fall within the real property exception permitting a preliminary injunction because the dispute between Halls and Phillips does not involve a challenge to the character or loss of real property. Rather, the dispute derives from Halls’ alleged breach of contract and any compensatory damages owed as a result thereof. Thus, our decision in Memory Gardens v. Pet Ponderosa is readily distinguishable since in that case, the deprivation of water caused irreparable physical change to the property.<sup>6</sup> Accordingly, the district court’s reliance on Memory Gardens was misplaced. Therefore, because

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<sup>4</sup>See Leonard v. Stoebling, 102 Nev. 543, 550-51, 728 P.2d 1358, 1363 (1986) (stating that a mandatory injunction is a harsh remedy which is generally used to restore the status quo and undo wrongful conditions); see also Memory Gardens v. Pet Ponderosa, 88 Nev. 1, 4, 492 P.2d 123, 124 (1972) (stating that mandatory injunctions “have frequently been employed in cases involving irrigation and water rights”).


<sup>5</sup>Memory Gardens, 88 Nev. at 4, 492 P.2d at 125.

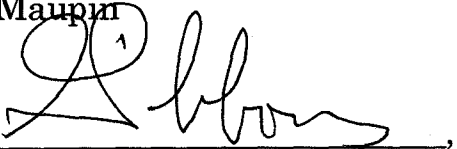
<sup>6</sup>Id.

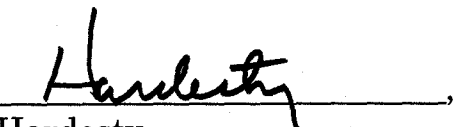
Phillips has an adequate legal remedy the district court abused its discretion in granting Phillips' motion for a preliminary injunction.<sup>7</sup>

Accordingly, we

ORDER the judgment of the district court REVERSED.<sup>8</sup>

 J.

Maupin  
 J.

Gibbons  
 J.  
Hardesty

cc: Hon. Jessie Elizabeth Walsh, District Judge  
John J. Graves Jr., Settlement Judge  
Joshua M. Landish  
Lovell & Lovell  
Clark County Clerk

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<sup>7</sup>Because we reverse the district court's order for the reasons stated above, we need not address Halls' other arguments.

<sup>8</sup>We vacate our July 28, 2005 stay in this matter.