

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANNCO PROPERTIES, LTD., A
NEVADA LIMITED LIABILITY
COMPANY,
Appellant/Cross-Respondent,
vs.
MIKE GIUSTI D/B/A GIUSTI REALTY
AND ROLLAND P. WEDDELL,
Respondents/Cross-Appellants.

No. 46759

FILED

NOV 14 2007

JANETTE M. BLOOM
CLERK OF SUPREME COURT
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal and cross-appeal from a district court's grant of summary judgment in a real property contract action. First Judicial District Court, Carson City; William A. Maddox, Judge.

Appellant/cross-respondent Ancco Properties, Ltd. (Ancco) argues that, among other things, the district court erred in granting summary judgment to respondent/cross-appellant Weddell, after concluding that his alleged promise to arrange financing was void under the statute of frauds. We disagree. The parties are familiar with the facts and procedural history of this case; therefore, we do not recount them in this order except as is necessary for our disposition.

Summary judgment

This court reviews questions of law de novo.¹ It also reviews a district court's grant of summary judgment de novo.² "Summary judgment

¹Keife v. Logan, 119 Nev. 372, 374, 75 P.3d 357, 359 (2003).

²Wood v. Safeway, Inc., 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005).

is appropriate” where “no ‘genuine issue as to any material fact [remains] and . . . the moving party is entitled to a judgment as a matter of law.’”³ The substantive law on which a claim is based determines which facts are material.⁴ When reviewing an entry of summary judgment, this court views “the evidence, and any reasonable inferences drawn from it, . . . in a light most favorable to the nonmoving party.”⁵ Additionally, “[w]here an essential element of a claim for relief is absent, the facts, disputed or otherwise, as to other elements are rendered immaterial and summary judgment is proper.”⁶

Ancco’s sole claim against Weddell is a claim for intentional interference with a contractual relationship.

In an action for intentional interference with contractual relations, a plaintiff must establish:

- (1) a valid and existing contract;
- (2) the defendant’s knowledge of the contract;
- (3) intentional acts intended or designed to disrupt the contractual relationship;
- (4) actual disruption of the contract; and
- (5) resulting damage.⁷

³Id. (quoting NRCP 56(c)).

⁴Id. at 731, 121 P.3d at 1031.

⁵Id. at 729, 121 P.3d at 1029.

⁶Bulbman, Inc. v. Nevada Bell, 108 Nev. 105, 111, 825 P.2d 588, 592 (1992).

⁷J.J. Indus., LLC v. Bennett, 119 Nev. 269, 274, 71 P.3d 1264, 1267 (2003).

Therefore, we must first determine whether there is a valid and existing contract.

NRS 111.220(1)

NRS 111.220 requires that: (1) “[e]very agreement that, by [its] terms, is not to be performed within 1 year from the making thereof” must be “in writing, and subscribed by the person charged therewith.”

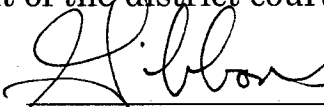
In this case, the contract that would have resulted from Weddell and Annco’s negotiations if those negotiations were successful would have been a three-year financing agreement between Annco and a lender. All parties agree that Weddell was not going to be the lender. Although the parties further agree that Weddell’s obligation to arrange Annco’s financing was to be secured in less than one year, we conclude that the district court did not err in concluding that NRS 111.220(1) renders the alleged Weddell/Annco’s contract void. The purported loan terms did not require repayment within one year.⁸


Additionally, we conclude that Annco’s arguments that the district court abused its discretion by denying its motion to amend its complaint, its motion for reconsideration, and continuance request pursuant to NRCP 56(f), as well as Weddell and Giusti’s motions for attorney fees, lack merit.⁹ Accordingly, we


⁸See Elliott v. Chrysler Motor Corp., 89 Nev. 402, 402-03, 514 P.2d 207, 207 (1973) (concluding that oral agreement that “was not to be performed within one year from the making thereof” failed to comply with the statute of frauds and was therefore void).

⁹Aviation Ventures v. Joan Morris, Inc., 121 Nev. 113, 118, 110 P.3d 59, 62 (2005).

ORDER the judgment of the district court AFFIRMED.


_____, J.
Gibbons


_____, J.
Cherry


_____, J.
Saitta

cc: Hon. William A. Maddox, District Judge
Patrick O. King, Settlement Judge
Robert E. Dickey Jr.
Allison, MacKenzie, Pavlakis, Wright & Fagan, Ltd.
Mike Giusti
Carson City Clerk