

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAWRENCE DOUMANI A/K/A  
LORENZO DOUMANI,  
INDIVIDUALLY,  
Appellant,  
vs.  
FRED M. DOUMANI, JR., AND  
RONALD DOUMANI,  
Respondents.

No. 48939

**FILED**

**APR 30 2009**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court judgment in a tort and contract action. Eighth Judicial District Court, Clark County; Mark R. Denton, Judge.

Appellant Lawrence Doumani, a/k/a Lorenzo Doumani (Lorenzo), challenges the district court judgment that found him in breach of his fiduciary duty to a family trust account, ordered him to pay in excess of \$2 million to respondents, his cousins, Fred Jr. and Ronald Doumani, and dismissed his counterclaims.

This case involves property that the parties inherited from their grandmother. The property that forms the basis of the dispute in this litigation—the family home in Beverly Hills, California—was maintained in a trust for the Doumani children and grandchildren.

Lorenzo, Fred Jr., and Ronald each inherited proportional shares of the aforementioned property, the “Aberdeen property.” In 1987, Lorenzo required financial assistance for a business venture. He asked family members to quitclaim their respective interests in the Aberdeen property to him so he could secure a loan against the property and obtain the necessary venture financing. In return, Lorenzo promised to quitclaim

the interests back to his family members and pay off the mortgage at sometime in the future. The family members agreed to assist Lorenzo and executed an agreement which was reduced to a memorandum of understanding (MOU).

The MOU provided that all the parties would convey to Lorenzo, by quitclaim deed, the Aberdeen property in the amount of \$1.4 million. The MOU stated that the conveyance was for the "sole purpose of his securing the . . . loan." The MOU also stated that despite the quitclaim deed, ownership of the home would remain as set out in the grandmother's will. In this dispute, Lorenzo claims that the MOU also imposed an obligation on his cousins, Fred Jr. and Ronald, to answer for their father's prior indebtedness with payment to him. However, there is no language in the MOU to support this contention.

In August 1999, ten years after the MOU was executed, Lorenzo failed to quitclaim the Aberdeen property to the family or pay the mortgage on the property. As a result, Fred Jr. and Ronald filed suit in California.

In response to the California suit, on September 1, 2000, the family negotiated a settlement (the "2000 Agreement") that provided for the sale of the Aberdeen property, as well as a stay in the California action. The 2000 Agreement also stated that the Aberdeen property would sell for approximately \$3 million and that following payment of mortgages, property taxes, real estate commissions, transfer taxes, and closing costs, the net proceeds subject to distribution would be approximately \$1.4 million. The 2000 Agreement also stated that the funds would be placed in a trust account at the Bank of America in Las Vegas, Nevada, and would remain there until distribution was mutually agreed upon by the parties.

In September 2000, the Aberdeen property did, in fact, sell for \$3 million and Lorenzo placed the funds in an interest-bearing account in a Las Vegas branch of Bank of America. In 2001, Lorenzo, without permission of other family members, diverted the funds to another account at BankWest in his name only. It is undisputed that he used the money for another business venture. A bank vice president who worked with Lorenzo during the time of the transfer testified that throughout the financial process, Lorenzo represented that the funds were his own and that there were no other ownership interest in the funds.

Lorenzo never repaid the amount he took from the Bank of America account. Fred Jr. and Ronald then instituted the instant action in Nevada for loss of the proceeds, claiming that the entire amount of the proceeds belonged to them as their share of the inheritance. The complaint included claims for breach of contract, fraud, and civil conversion, all arising from the 2000 Agreement. Lorenzo admitted to moving the proceeds from the sale of the Aberdeen home from the Bank of America to BankWest and using it as collateral for a line of credit in making a movie. He further admitted that he was unable to repay the amount owed to BankWest, and that he consented to the bank taking the proceeds from the sale of the Aberdeen property to satisfy his debt. However, Lorenzo counterclaimed that some of the proceeds he diverted belonged to him as part of his inheritance. Lorenzo also asserted that he was entitled to offsets from Fred Jr. and Ronald with respect to monies owed to him from prior family dealings.

Following a bench trial, the district court found that Fred Jr. and Ronald had established evidence of misappropriation of funds that should have been held in trust pursuant to the 2000 Agreement. The district court also found that Lorenzo had purposefully diverted funds for

his own self-serving needs, namely the collateralization of his business venture. The district court dismissed Lorenzo's counterclaim after it determined no credible evidence had been presented to support the counterclaim. This appeal followed.

On appeal, Lorenzo argues that the district court erred in determining the interests of the parties in the proceeds of the sale of the Aberdeen property because the district court did not consider the entire course of conduct and the multiple agreements of the parties.<sup>1</sup> Lorenzo also asserts that the district court erred because the evidence presented did not support the district court's findings of facts and conclusions of law.<sup>2</sup> Lorenzo further contends that the district court's dismissal of his counterclaims was a punitive measure, rather than a legally based decision.

## DISCUSSION

### Standard of review

"The question of the interpretation of a contract when the facts are not disputed is a question of law" that is subject to the de novo

---

<sup>1</sup>Lorenzo's first argument is a brief discussion and restating of the facts, with no legal citation. We have considered his argument and conclude that it is resolved by our conclusions as to the other two issues discussed in this order.

<sup>2</sup>Specifically, Lorenzo asserts that the district court improperly admitted recordings of discussions between himself and his cousins. Lorenzo contends that he was not aware of the recordings until trial, and that the failure to disclose them created an unfair advantage. We do not reach the merits of this argument because we conclude that there is substantial evidence on the record, aside from the recordings, to support the district court's order.

standard of review. Grand Hotel Gift Shop v. Granite St. Ins., 108 Nev. 811, 815, 839 P.2d 599, 602 (1992). However, when there is a bench trial at which the evidence was conflicting, this court reviews the district court's findings of fact for clear error and will not disturb its findings if they are supported by substantial evidence. Radaker v. Scott, 109 Nev. 653, 657, 855 P.2d 1037, 1040 (1993). Substantial evidence is that which "a reasonable mind might accept as adequate to support a conclusion." Id., (quoting State, Emp. Security v. Hilton Hotels, 102 Nev. 606, 608, 729 P.2d 497, 498 (1986)).

#### Substantial evidence

Based on our review of the record, we conclude that there is substantial evidence supporting the district court's finding that Lorenzo committed a breach of contract and fiduciary duty. Specifically, we conclude that the following evidence supports the district court's findings. The 2000 Agreement between the Doumani cousins to quitclaim family interests in the Aberdeen property to Lorenzo, for his benefit, was memorialized in the MOU. The MOU expressly stated that it was for the "sole purpose of [Lorenzo] securing the . . . [\$1.4 million] loan," and that ownership of the Aberdeen property would remain as decreed in their grandmother's will.

In 1999, ten years after signing the MOU, Lorenzo had not fulfilled his promise to pay off the mortgage or quitclaim the family members' interests back to them. Fred Jr. and Ronald initiated litigation in California against Lorenzo alleging breach of the MOU. That litigation resulted in a settlement agreement, which was memorialized in the 2000 Agreement. The 2000 Agreement purported to create a trust, consisting of the proceeds from the sale of the Aberdeen property. Lorenzo admits that taking money out of the trust for his own business venture constituted a

breach of the 2000 Agreement. Accordingly, the district court found that given the breach of his fiduciary duties under the trust, Lorenzo forfeited his share of proceeds from the sale of the Aberdeen property. We conclude that this evidence at trial, including Lorenzo's own admission, is substantial evidence to support a finding that Lorenzo breached the 2000 Agreement and his fiduciary duty to the trust.

The counterclaim

Lorenzo claims that the district court dismissed his counterclaim with prejudice as a punitive measure. The district court's order contains no such language. Rather, the district court's order states that there was no credible evidence supporting Lorenzo's claim that Fred Jr. and Ronald had promised to answer for their father's debts to Lorenzo. We agree.

In its decision, the district court noted that the only evidence Lorenzo provided for his counterclaim was his own unsupported contention. It further noted that Lorenzo's argument that Fred Jr. and Ronald promised to answer for their father's debts was contrary to the express terms of the MOU. Lorenzo asserted that since the cousins' father owed him money, the cousins had forfeited their interest in the Aberdeen property to him. However, the MOU expressly stated that title was being placed in Lorenzo's name so that he could obtain a loan, but that Fred Jr. and Ronald's interests would continue to be recognized as set forth in the grandmother's will. Neither the MOU nor the 2000 Agreement contain language supporting a claim for repayment of other family debt.


Our review of the trial record shows that the only evidence Lorenzo presented to support his claim was his own self-serving testimony, and that of his father. We found no evidence in the record supporting Lorenzo's contention that the district court's decision was a

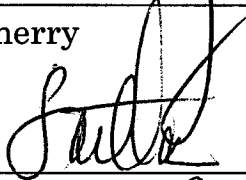
punitive sanction. Further, the evidence presented by Lorenzo was contradicted by the express terms of the MOU and the 2000 Agreement. The district court carefully considered the conflicting evidence and found that there was “no credible evidence to support [Lorenzo’s] counterclaim.” Because no evidence supports Lorenzo’s claim, we conclude that the district court properly denied the relief Lorenzo requested.

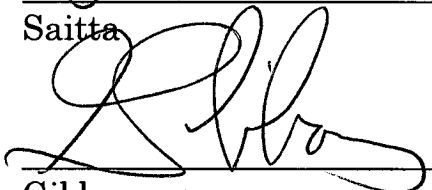
We have considered the claims raised by Lorenzo and find that substantial evidence on record supports proper dismissal of Lorenzo’s counterclaim, and we conclude that Lorenzo’s argument that the dismissal was punitive is without merit.

Therefore, because we find that the district court’s findings that Lorenzo breached the contract with Ronald and Fred Jr. and violated his fiduciary duty were supported by substantial evidence and were not affected by clear error we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Mark R. Denton, District Judge  
Stephen E. Haberfeld, Settlement Judge  
Hutchison & Steffen, Ltd.  
Wells & Rawlings  
Eighth District Court Clerk