IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBYN LINDNER,
Appellant,
vs.
JEFFREY A. BARRY; C. A. BAUMAN, A/K/A TONY BAUMAN; DESTRA RISK MANAGEMENT LIMITED, A NEVADA CORPORATION; AND GLOVILL ENTERPRISES, INC., A PANAMA CORPORATION,
Respondents.

No. 49265

FILED

JUN 13 2008

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

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court judgment in a tort action. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge.

Appellant Robyn Lindner filed a complaint alleging fraudulent conveyance, conspiracy, and related claims against respondents Jeffrey A. Barry (her ex-spouse), Destra Risk Management Limited, and Gresham Group, Inc., which is not a party to this appeal, as well as respondents C. A. Bauman and Glovill Enterprises, Inc., who then filed a cross-claim and counterclaims. In her complaint, Lindner asserted that Barry was attempting to avoid alimony payments by fraudulently transferring or assigning certain monthly income payments that he had been receiving from Gresham Group. Specifically, Lindner alleged that in January 2000, Barry assigned his rights in the Gresham Group payments to Glovill Enterprises without receiving any consideration and for the purpose of avoiding Lindner's collection of support payments, and that Glovill Enterprises and Bauman intentionally conspired with Barry in that regard.

Respondents moved for summary judgment on the basis that Lindner could not prove that Barry fraudulently assigned the Gresham Group payments to Glovill Enterprises or that Glovill Enterprises and Bauman conspired with Barry to defraud Lindner. Among other things, respondents asserted that Lindner could not prove under the fraudulent transfer statutes, NRS 112.180 and NRS 112.190, either that Barry assigned the income with the actual intent to hinder, delay, or defraud Lindner,[1] or that Barry did not receive reasonably equivalent value in exchange for the assignment.[2] Respondents argued that Barry had assigned the Gresham Group payments to Glovill Enterprises in order to repay a preexisting debt. They asserted that the preexisting debt arose when Glovill Enterprises loaned Barry $375,000 so that Barry could invest in a Brazilian company.

The district court granted summary judgment to respondents, concluding that Lindner failed to provide any evidence of the parties' motives and intentions concerning the alleged fraudulent transaction, or that Barry did not receive reasonably equivalent value in exchange for the assignment of his income to Glovill Enterprises. Thereafter, Lindner filed a motion in the district court essentially requesting the district court to reconsider its summary judgment, pointing to a district court order in her divorce action that concluded, for the purpose of determining community debt, that Barry failed to demonstrate a valid debt to Glovill Enterprises.

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[1]NRS 112.180(1)(a).

[2]NRS 112.180(1)(b) and NRS 112.190(1).

The district court denied the motion and later resolved the pending cross- and counterclaims. This appeal followed.

On appeal, Lindner contends that the district court erred when it granted summary judgment to respondents. We review the district court's order granting summary judgment de novo.[3] Summary judgment was appropriate if the pleadings and other evidence on file, viewed in a light most favorable to Lindner, demonstrate that no genuine issue of material fact remains in dispute and that respondents were entitled to judgment as a matter of law.[4] When, as here, the nonmoving party will bear the burden of persuasion at trial, the party moving for summary judgment may demonstrate that no genuine issue of material fact exists by either "(1) submitting evidence that negates an essential element of the nonmoving party's claim,"[5] or "(2) 'pointing out . . . that there is an absence of evidence to support the nonmoving party's case.'"[6] The nonmoving party, then, must "transcend the pleadings and, by affidavit or other admissible evidence, introduce specific facts that show a genuine issue of material fact."[7] Thus, the nonmoving party may not rely

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

[4]Id.

[5]Cuzze v. Univ. & Cmty. Coll. Sys. of Nev., 123 Nev. ___, ___, 172 P.3d 131, 134 (2007) (citing Celotex Corp. v. Catrett, 477 U.S. 317, 331 (1986) (Brennan, J., dissenting)).

[6]Id. (quoting Celotex, 477 U.S. at 325).

[7]Id. (citing Wood, 121 Nev. at 732, 121 P.3d at 1031).

on general allegations supported with conclusory statements to create an issue of fact.[8]

In this case, Lindner, as plaintiff, bore the burden of persuasion at trial. Thus, respondents, in moving for summary judgment, properly pointed to the dearth of evidence to support Lindner's causes of action and submitted evidence negating Lindner's claims. As a result, Lindner was required to present by affidavit or other admissible evidence specific facts demonstrating that a genuine issue remained for trial, which she failed to do. Accordingly, we conclude that the district court did not err when it granted summary judgment to respondents, and we

ORDER the judgment of the district court AFFIRMED.[9]

_____, J.
Maupin

_____, J.
Cherry

_____, J.
Saitta

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[8]See Yeager v. Harrah's Club, Inc., 111 Nev. 830, 833, 897 P.2d 1093, 1094-95 (1995).

[9]Having considered all of the issues raised by Lindner, we conclude that her other contentions lack merit and thus do not warrant reversal of the district court's judgment.

cc: Hon. Steven R. Kosach, District Judge
Robyn Lindner
C. A. Bauman
Jeffrey Friedman
Washoe District Court Clerk