IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL PHILLIP GENTILE, SUING ON BEHALF OF HIMSELF AND ALL OTHER PURCHASERS OF LOTS 418S THROUGH 519S, PINION HILLS RANCHES, Appellant, vs. S. K. MADAN AND SHOBHANA MADAN, Respondents.	No. 49720
MICHAEL PHILLIP GENTILE, SUING ON BEHALF OF HIMSELF AND ALL OTHER PURCHASERS OF LOTS 418S THROUGH 519S, PINION HILLS RANCHES, Appellant, vs. S. K. MADAN, AN INDIVIDUAL; SHOBHANA MADAN, AN INDIVIDUAL; AND STOREY COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF NEVADA, Respondents.	No. 49747
MICHAEL PHILLIP GENTILE, Appellant, vs. S. K. MADAN AND SHOBHANA MADAN, Respondents.	No. 49749
STEWART H. PARKER, TRUSTEE OF THE STEWART H. PARKER AND MARGERY L. PARKER REVOCABLE TRUST DATED 5/15/92, Appellant, vs. S. K. MADAN AND SHOBHANA MADAN, Respondents.	No. 49753

FILED

DEC 16 2009

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

09-30549

ORDER OF AFFIRMANCE

These are consolidated appeals from final district court orders in real property actions. First Judicial District Court, Carson City; William A. Maddox, Judge.

These cases concern a deed of trust used to secure a promissory note for several parcels of land (the Storey County Property) in Storey County, Nevada. The primary question in these appeals concerns the interpretation of NRS 106.240. The statute extinguishes certain real property debts ten years after they become wholly due, absent recorded extensions, and creates a conclusive presumption that the debt has been satisfied. The specific issue before us is what triggers the commencement of the ten-year time period set forth in NRS 106.240.

The parties have competing interests in the Storey County Property. Appellants (collectively, Gentile) are various property owners. When Gentile bought the land at issue, it was encumbered by a deed of trust. The recorded deed of trust did not contain a wholly due date in its terms. Respondents S.K. and Shobhana Madan became the last in a series of assignees of the beneficial interest of the deed of trust. Essentially, the underlying dispute involves the viability of the deed of trust and whether it has expired, as Gentile argues, or is valid and enforceable, as the Madans argue.

The district court determined that the deed of trust was valid and enforceable pursuant to the plain language of NRS 106.240. It made its decision based on the fact that the recorded deed of trust did not contain a wholly due date and therefore it did not trigger NRS 106.240. It further found that the written extension of the deed of trust, which did include a wholly due date, was valid and thereby rejected Gentile's notion that the extension had to be acknowledged or notarized. For the reasons

set forth below, we agree and, therefore, affirm the judgment. The parties are familiar with the facts and we do not recount them here except as necessary to our disposition.

DISCUSSION

Standard of review

We generally review a district court's order with respect to a declaratory judgment for an abuse of discretion. County of Clark v. Upchurch, 114 Nev. 749, 752, 961 P.2d 754, 756 (1998). However, "[q]uestions of law are reviewed de novo." SIIS v. United Exposition Services Co., 109 Nev. 28, 30, 846 P.2d 294, 295 (1993).

NRS 106.240 was not triggered by the deed of trust

On appeal, Gentile argues that the deed of trust at issue was extinguished in March 1989 pursuant to NRS 106.240. We disagree because we conclude that NRS 106.240 was never triggered.

When a statute's language is plain and its meaning clear, this court will apply that plain language. See MGM Mirage v. Nevada Ins. Guaranty Ass'n, 125 Nev. ___, ___, 209 P.3d 766, 769 (2009). A statute is plain and unambiguous when it is capable of only one meaning. Id.

This case involves the interpretation of one statute—NRS 106.240. NRS 106.240 provides:

> The lien heretofore or hereafter created of any mortgage or deed of trust upon any real property, appearing of record, and not otherwise satisfied and discharged of record, shall at the expiration of 10 years after the debt secured by the mortgage or deed of trust according to the terms thereof or any recorded written extension thereof become wholly due, terminate, and it shall be conclusively presumed that the debt has been regularly satisfied and the lien discharged.

NRS 106.240 is unambiguous and therefore capable of only one meaning. See Pro-Max Corp. v. Feenstra, 117 Nev. 90, 95, 16 P.3d 1074, 1077-78 (2001). It explicitly requires the deed of trust itself to contain "terms" that set out the date the recorded deed of trust would become wholly due and thereby trigger the commencement of the ten-year expiration provision of NRS 106.240.

In the present case, it is undisputed that the recorded deed of trust did not contain a wholly due date. By applying the plain terms of NRS 106.240 to this case, we conclude that the ancient mortgage statute was not triggered by the deed of trust because the document did not contain terms setting a wholly due date. There was, however, a written extension agreement which contained a wholly due date of August 30, 1996, which was recorded on August 28, 2006. Pursuant to the plain language of NRS 106.240, August 30, 1996 was the date the statute's expiration provision was triggered. Accordingly, we conclude the district court properly determined that the deed of trust was valid and enforceable because NRS 106.240 was not triggered by the deed of trust itself, but rather the written extension agreement.

NRS 106.240 does not require notarization of a recorded written extension

Gentile further argues that according to the "plain, clear, and unambiguous language" of NRS 106.240, a written agreement and recordation and some type of notarization are required for any extension of the wholly due date of a lien securing a deed of trust. Gentile contends that, in order to be recorded, the written extension must be acknowledged, for example, by a notary public. We disagree.

This court has had occasion to consider NRS 106.240 once before, when it was asked to determine whether the statute was limited to bona fide purchasers. Pro-Max v. Feenstra, 117 Nev. 90, 16 P.3d 1074

(2001). We rejected such an interpretation of the statute, stating that "[n]o limitation of the statute's terms to bona fide purchasers can be read into the statute." Id. at 95, 16 P.3d at 1078 (emphasis added). Our holding, then, as now, therefore rejected an interpretation that read language into the statute.

Gentile asks this court to do the very thing it rejected in Pro-Max, that is, to read terms into NRS 106.240. Gentile's interpretation of the statute would require the recorded written extension be notarized or authenticated, requirements that appear nowhere in the plain language of the statute. This type of reading of NRS 106.240 would read language into NRS 106.240 and therefore go against this court's jurisprudence of applying the plain language of a clear and unambiguous statute. Therefore, we conclude that because NRS 106.240 does not contain any language requiring a notarization of a recorded written extension, the district court correctly determined that the extension agreement in this case was valid, despite not having been notarized.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Hardesty, C.J.

Parraguirre, J.

Douglas, J.

Cherry, J.

Saitta, J.

Gibbons, J.

Pickering, J.

cc: First Judicial District Court Dept. 2, District Judge
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