

IN THE SUPREME COURT OF THE STATE OF NEVADA

YUAN CHUAN TSAI AND LIN KUEI-
MEI TSAI,
Appellants,
vs.
WILLIAM CHENG NAN CHEN AND
CHEN MEI CHEN,
Respondents.

No. 51115

YUAN CHAUN TSAI AND LIN KUEI-
MEI TSAI,
Appellants,
vs.
WILLIAM CHENG NAN CHEN AND
CHEN MEI CHEN,
Respondents.

No. 53800

FILED

DEC 20 2010

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

ORDER AFFIRMING IN PART AND REVERSING IN PART

These are consolidated appeals from a district court judgment in a real property action and from a special order after final judgment. Eighth Judicial District Court, Clark County; Kenneth C. Cory, Judge (Docket No. 51115); Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge (Docket No. 53800).

These appeals arise from a dispute over whether appellants Yuan Chuan Tsai and Lin Kuei-Mei Tsai intended to sell their home to respondents William Cheng Nan Chen and Chen Mei Chen. Mr. Chen testified that he was told by Mr. Tsai that the Tsais would sell their residence to the Chens to get money to put into a business in which Mr.

Tsai and Mr. Chen were partners, while Mr. Tsai testified that Mr. Chen merely asked to use the home as security for a loan.¹

The Tsais filed the underlying action, while the Chens filed various counterclaims against the Tsais. The district court found for the Tsais on a claim for breach of fiduciary duty and for the Chens in part on a claim for unjust enrichment and ordered the property at issue to be placed in a constructive trust and sold. The district court intended the proceeds to satisfy a judgment in a lawsuit concerning the parties' unpaid rent on their business property that is apparently still pending in district court. Any remaining proceeds would be split, with 51 percent going to the Tsais and the Chens receiving the remaining 49 percent. The Tsais' appeal from this judgment was docketed in this court as No. 51115.

While the appeal in Docket No. 51115 was pending, the Chens moved in the district court to evict the Tsais from the residence, to reduce the listing price of the property, and for a judgment to pay for necessary repairs to the house. The district court granted the motion, thereby reducing the listing price, granting repair costs, and evicting the Tsais.² The Tsais' appeal from this post-judgment order was docketed in this court as No. 53800.

On appeal, the Tsais argue: (1) in Docket No. 51115, that the district court's decision directing that the residence be placed in a constructive trust and sold, with the proceeds split between the parties,

¹Tsai testified that he and his wife speak and write very little English and depend on others to translate for them.

²The parties are familiar with the facts, and we do not recount them further except as necessary to our disposition.

was not supported by substantial evidence; and (2) in Docket No. 53800, that the district court erred in granting the Chens' post-judgment motion to evict them, to reduce the listing price of the property, and for judgment to pay for repairs to the house.

We conclude that the district court's decision to sell the house and to divide the proceeds was supported by substantial evidence, and we therefore affirm the district court's judgment in Docket No. 51115. However, we further conclude that the district court did not have jurisdiction to enter the post-judgment order while the appeal in Docket No. 51115 was pending. Accordingly, we reverse the district court's order in Docket No. 53800.

Standard of review

The district court's factual findings are given deference and will be upheld if not clearly erroneous and if supported by substantial evidence. International Fid. Ins. v. State of Nevada, 122 Nev. 39, 42, 126 P.3d 1133, 1134-35 (2006). However, we review a district court's conclusions of law de novo. Grosjean v. Imperial Palace, 125 Nev. ___, ___, 212 P.3d 1068, 1075 (2009).

Substantial evidence is evidence "which 'a reasonable [person] might accept as adequate to support a conclusion.'" State, Emp. Security v. Hilton Hotels, 102 Nev. 606, 608, 729 P.2d 497, 498 (1986) (quoting Richardson v. Perales, 402 U.S. 389, 401 (1971)). In making such a determination, "due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses." Pace v. Linton, 97 Nev. 103, 103, 625 P.2d 84, 85 (1981). We are not at liberty to weigh evidence anew and where conflicting evidence exists, all favorable inferences must be drawn in favor of the prevailing party. Smith v. Timm, 96 Nev. 197, 202, 606 P.2d 530, 532 (1980).

The district court properly directed the sale of the residence

The Tsais argue that the district court's judgment in Docket No. 51115 is not supported by the evidence because Chen was the only witness to testify that the intent was to purchase the Tsais' property. The Tsais urge us to conclude that the evidence is so weak and inconclusive that the decision should be overturned. We disagree and conclude that the district court properly resolved the convoluted and contradictory testimony provided by the parties with an equitable solution by reforming the contract between the parties and by ordering a constructive trust placed on the proceeds. While the testimony in this case was conflicting, we conclude that there is substantial evidence to support the district court's conclusion that the house had been sold to the Chens for the benefit of the business. The trial testimony shows that, after becoming part owner of the business, the Chens invested \$42,000, plus \$30,000 that they had previously loaned the Tsais, while the Tsais did not contribute any money to the business. Furthermore, upon selling the house, the Tsais had all liens against the property paid off and they received a check for \$104,181.17—the full proceeds of the sale—and the Chens shortly thereafter began making the mortgage payments. Moreover, the only neutral person to testify, Anthony Pien, indicated that he believed that the house was to be temporarily sold to Chen in order to obtain a loan for the business. As such, we conclude that the district court's decision is supported by substantial evidence and we affirm the district court's judgment in Docket No. 51115.

The district court lacked jurisdiction to grant the post-judgment motion regarding eviction, reducing the listing price, and for judgment for repairs

The Tsais argue that because the issue of ownership of the property was pending on appeal, the district court did not have jurisdiction to hear the Chens' motion and issue an order in reference to the property. We agree. In Mack-Manley v Manley, we stated that

when an appeal is perfected, the district court is divested of jurisdiction to revisit issues that are pending before this court, [however,] the district court retains jurisdiction to enter orders on matters that are collateral to and independent from the appealed order, i.e., matters that in no way affect the appeal's merits.


122 Nev. 849, 855, 138 P.3d 525, 529-30 (2006).


We conclude that because a timely notice of appeal was filed from the judgment at issue in Docket No. 51115, the district court was divested of jurisdiction to hear the Chens' motions while that appeal was pending. Here, the initial appeal concerned whether the district court erred in awarding the Chens a 49-percent interest in the property. While that appeal was pending, the Chens asked the district court: (1) to evict the Tsais; (2) to reduce the listing price of the residence; (3) for a judgment of \$11,450 for repairs needed to make the house marketable; and (4) for attorney fees. The district court granted these motions to the extent that it entered an order directing the Tsais to vacate the property, to reduce the listing price, and for judgment on house repairs. These requested actions depended solely on the subject at issue in the appeal that was pending in Docket No. 51115, specifically, who properly owns the house. Because the post-judgment order was not independent from the appealed order, it would have an effect on the merits of the appeal in Docket No.


51115. Accordingly, the district court lacked jurisdiction over these matters, and the order in Docket No. 53800 must be reversed.³

In light of the foregoing, we

ORDER the judgment of the district court AFFIRMED IN PART AND REVERSED IN PART.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. Kenneth C. Cory, District Judge
Hon. Linda Marie Bell, District Judge
Cuthbert E.A. Mack
George R. Carter
Eighth District Court Clerk

³Because we conclude that the district court did not retain jurisdiction, we conclude that the issue of whether the district court properly awarded \$11,450 in damages for house repairs is rendered moot.