

IN THE SUPREME COURT OF THE STATE OF NEVADA

HENRY RYGIOL,
Appellant,
vs.
RONALD G. BARRON,
Respondent.

No. 35090

FILED

AUG 11 2000

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER VACATING ENTRY OF PARTIAL SATISFACTION OF JUDGMENT

This is a proper person appeal from the district court's order granting respondent's motion to compel entry of partial satisfaction of a judgment. On April 25, 2000, this court ordered respondent Ronald Barron to show cause why the district court's order should not be vacated. On June 15, 2000, Barron filed a response which does not address the issues in this appeal, but rather addresses issues already disposed of in related appeals, specifically, Rygiol's right to pursue collection of the judgment at issue in this case. See Rygiol v. Barron, Docket Nos. 33183/34236 (consolidated) (Order Dismissing Consolidated Appeals, April 26, 2000). Barron concedes that no Nevada statute provides for entry of "partial" satisfaction of judgment. However, he urges this court to affirm the district court's ruling on the ground that, to the extent not already paid, the judgment has been "extinguished" by the dissolution of Sierra Nova, the limited partnership to which Rygiol transferred the bulk of his interest in the judgment.

Initially, we note that in order for this court to conclude that the judgment has been extinguished, we would be required to engage in fact-finding. An appellate court is not suited for such a task. See Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 604, 637 P.2d 534, 536 (1981) (noting that "an appellate court is not an appropriate forum in which to resolve disputed questions of fact").

Neither the order nor the record before this court contains citation to any authority permitting the entry of a "partial" satisfaction of judgment, and we have found none.


NRS 17.200 provides:

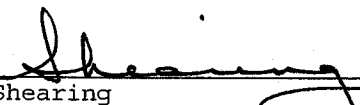
Satisfaction of a judgment may be entered in the clerk's docket if an execution is returned satisfied, and if an acknowledgment of satisfaction is filed with the clerk, made in the manner of an acknowledgment of a conveyance of real property, by the judgment creditor, or by the attorney, unless a revocation of his authority is previously filed. Whenever a judgment is satisfied in fact, the party or attorney shall give such an acknowledgment, and the party who has satisfied the judgment may move the court to compel it or to order the clerk to enter the satisfaction in the docket of judgment.


Nothing in this statute provides for a partial satisfaction of judgment.¹

Here, there is no question but that only a small portion of the judgment has been paid. It is also undisputed that this minimal payment was not made pursuant to an agreement that it was in full satisfaction of the judgment.² Under NRS 17.200, respondent was not entitled to a "partial" satisfaction of judgment. Accordingly, the district court's order entering partial satisfaction of judgment is hereby vacated.

It is so ORDERED.


_____, C.J.
Rose


_____, J.
Shearing


_____, J.
Becker

¹We note that had the legislature wished to provide for entry of partial satisfaction, it could have done so explicitly. See, e.g., Cal. Civ. Proc. Code § 724.110 (providing that upon demand by judgment debtor, judgment creditor shall file partial satisfaction, and that debtor may ask court to compel entry if creditor refuses). No similar provision appears in Nevada's statutes.

²While Barron alleges that the remainder of the judgment was "extinguished," as stated above, we decline to engage in the fact-finding necessary to such a determination. Barron may present his arguments to the district court.

cc: Hon. Joseph S. Pavlikowski, Senior Judge
Ronald G. Barron, Chtd.
Henry Rygiol
Clark County Clerk