

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

DAVID L. MANN,
Appellant,
vs.
KASSYA NESTOR,
Respondent.

No. 65912

FILED

JUN 09 2016

FRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court divorce decree. Eighth Judicial District Court, Family Court Division, Clark County; William S. Potter, Judge.

In the underlying action, the district court scheduled a trial to resolve the parties' divorce proceeding. On the day the trial was scheduled and apparently without any prior warning, appellant David Mann sent his attorney, opposing counsel, and respondent Kassya Nestor a letter saying that he would not be attending the trial based on religious objections. Mann gave his attorney permission to settle the case on his behalf, but he specifically provided that she could not give away his interest in the parties' property in Brazil.¹ A settlement was reached with regard to certain issues, but in light of the restriction regarding the property in

¹Mann asserts that the parties paid money towards a custom-built home in Brazil, which was not finished. He further asserts that Nestor has been inconsistent throughout the proceedings, at various times denying they built a home, acknowledging that they built a home, and asserting that they only provided money to build an addition to her aunt's home in Brazil. As discussed below, the court ultimately awarded Nestor "any interest, whether community or separate, of either party that may exist in [Nestor's] Aunt's home in Brazil."

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Brazil, the court determined that it would need to go forward with a hearing as to that issue. At the hearing, Nestor testified that she and Mann had provided money to build an addition to her aunt's home in Brazil, and she asked that the court award her any interest the parties may have in that addition. The court granted that request, and this appeal from the resulting divorce decree followed.

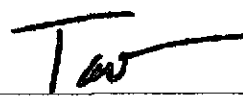
On appeal, Mann argues the district court abused its discretion by awarding Nestor the parties' interest in the Brazilian property because she had previously denied that the parties had any interest in that property and because the award resulted in an unequal distribution of the parties' assets without justification. He also asserts that the district court denied him due process by awarding the property interest to Nestor because he did not know that the interest would be adjudicated, as Nestor had previously denied that the parties had any interest in the property.² At trial, Mann did not object to the adjudication of the property in Brazil based on due process, Nestor's purported change in position, or the alleged unequal distribution of assets. As a result, he waived these arguments, and they do not provide a basis for reversal of the district court's decision. *See Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court, unless it goes to the jurisdiction of that court, is deemed to have been waived and will not be considered on appeal.").

²Mann's claim that he did not know that the property might be adjudicated is belied by his letter indicating he would not attend the trial, which specifically restricted his counsel's authority with regard to that property. Regardless, for the reasons discussed herein, we do not consider whether the adjudication of the property denied Mann due process.

In the remainder of his briefing on appeal, Mann contends that the district court denied him the right to the attorney of his choice by limiting his ability to have attorneys work for him in an unbundled capacity, deprived him of the right to take depositions by requiring him to prepay Nestor's attorney fees for said depositions, and improperly vacated a motion for an order to show cause as to why Nestor failed to include the Brazilian property in her financial disclosure form. But the only harm that Mann identifies with regard to these alleged errors is the limitation on his ability to get information regarding the property in Brazil and money that he alleged he had given Nestor to build the property.³ In light of Mann's failure to appear at the trial and waiver of the arguments regarding the Brazilian property, we conclude that any error in these rulings was harmless. See NRCP 61 (requiring the court at all stages of a proceeding to "disregard any error or defect in the proceeding which does not affect the substantial rights of the parties"). Thus, these arguments also do not provide a basis for reversal. Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

³As with the other issues relating to the Brazilian property, Mann did not raise any arguments at the hearing with regard to the money that he allegedly gave Nestor to build the house, and thus, he waived any such arguments. See *Old Aztec Mine*, 97 Nev. at 52, 623 P.2d at 983.

cc: Hon. William S. Potter, District Judge, Family Court Division
Robert E. Gaston, Settlement Judge
David L. Mann
Kassya Nestor
Eighth District Court Clerk