

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

BANK OF THE WEST, A CALIFORNIA CORPORATION,

Petitioner,

vs.

THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE; AND THE HONORABLE BRIDGET E. ROBB, DISTRICT JUDGE, Respondents,

and

F. HARVEY WHITTEMORE; ANNETTE WHITTEMORE, HUSBAND AND WIFE; THE LAKESHORE HOUSE LIMITED PARTNERSHIP, A NEVADA LIMITED PARTNERSHIP; AND EMERSON HEDGES, LLC, A NEVADA LIMITED LIABILITY COMPANY, Real Parties in Interest.

No. 72106

FILED

MAR 13 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DENYING PETITION FOR WRIT OF MANDAMUS


This is an original petition for a writ of mandamus challenging a district court order expunging a lis pendens in a fraudulent transfer action.


Petitioner holds a judgment against real parties in interest F. Harvey Whittemore and Annette Whittemore. In trying to collect on that judgment, petitioner filed an action seeking to undo an allegedly fraudulent transfer of real property between the Whittemores and the other real parties in interest. And in conjunction with that action, petitioner recorded a lis pendens against the real property. The district court subsequently granted a motion to expunge the lis pendens, and petitioner filed this writ petition.

Having reviewed petitioner's arguments and the appendices in this writ petition, we conclude that petitioner's use of a lis pendens in this action was not appropriate, and the district court therefore properly expunged it. See *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 124 Nev. 193, 197, 179 P.3d 556, 558 (2008) (holding that a writ of mandamus is available to address an arbitrary or capricious abuse of discretion); see also *Weddell v. H2O, Inc.*, 128 Nev. 94, 106, 271 P.3d 743, 751 (2012) (providing that lis pendens are inappropriate vehicles to recover personal money judgments); *Levinson v. Eighth Judicial Dist. Court*, 109 Nev. 747, 752, 857 P.2d 18, 21 (1993) (“[L]is pendens is not available to merely enforce a personal or money judgment. There must be some claim of entitlement to the real property affected by the lis pendens . . .”). Accordingly, we

ORDER the petition DENIED.


_____, C.J.
Silver


_____, J.
Tao


_____, J.
Gibbons

cc: Hon. Bridget E. Robb, District Judge
Gunderson Law Firm
Robertson, Johnson, Miller & Williamson
Echeverria Law Office
McDonald Carano Wilson LLP/Las Vegas
Washoe District Court Clerk