

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VANCE COAN,
Appellant,
vs.
ROSALIE BACLET,
Respondent.

No. 81591-COA

FILED

SEP 17 2021

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF AFFIRMANCE

Vance Coan appeals from a district court order dismissing his complaint. Second Judicial District Court, Washoe County; Scott N. Freeman, Chief Judge.

In the underlying matter, Vance filed a complaint for breach of contract against Rosalie Baclet, alleging that Rosalie breached a settlement agreement between her and his business partner, Jeffery Baclet (Rosalie's nephew), by selling several properties that were purportedly held in trust for Jeffery. As part of his business dealings with Jeffery, Vance maintains that he owns a 50 percent interest in the properties allegedly held in trust by Rosalie on Jeffery's behalf. Accordingly, Vance alleged that he suffered damages resulting from the sale of the properties, and he requested that the district court order Rosalie to comply with the terms of the settlement agreement.

In lieu of filing an answer, Rosalie filed a motion to dismiss and argued that (1) Vance's "incomprehensible complaint" did not state a cause of action; (2) these issues were already litigated in an earlier probate case

and civil action and that Vance is precluded from raising them again; (3) Vance's complaint is barred by the statute of limitations; and (4) Vance does not have standing to assert a breach of contract against Rosalie as he was not a party to the 2003 settlement agreement. After full briefing, the district court granted Rosalie's motion to dismiss for the reasons stated above. In response, Vance filed a motion for reconsideration, which the district court denied as (1) the motion was untimely under WDCR 12(8); (2) Vance did not present substantially different evidence; and (3) Vance did not show that the order was clearly erroneous. Vance now appeals.


We review a dismissal pursuant to NRCP 12(b)(5) de novo. *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 227-28, 181 P.3d 670, 672 (2008). On appeal, Vance contends that dismissal was inappropriate as he has a bona fide interest in the enforcement of the settlement agreement due to his interest in the properties based on his agreement with Jeffery. Accordingly, Vance posits that he had standing to pursue the claims against Rosalie below.


However, Vance fails to set forth any arguments concerning the district court's other grounds for dismissing his complaint, namely that (1) he failed to state a cognizable cause of action therein, warranting dismissal under NRCP 12(b)(5); (2) his complaint is barred by the application of preclusion principles; and (3) his complaint is barred by the statute of limitations. Accordingly, Vance has waived these issues on appeal, see *Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161, 252 P.3d 668, 672 (2011) (providing that issues not raised on appeal are deemed waived), and affirmance of the dismissal order is warranted on this basis alone. See *Hillis v. Heineman*, 626 F.3d 1014, 1019 n.1 (9th Cir. 2010) (affirming a

dismissal where the appellants failed to challenge an alternative ground the district court provided for it).

Therefore we,

ORDER the judgment of the district court AFFIRMED.¹


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Scott N. Freeman, Chief Judge
Vance Coan
Robertson, Johnson, Miller & Williamson
Washoe District Court Clerk

¹Insofar as Vance raises arguments that are not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given the disposition of this appeal.