

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICK WASHBURN, INDIVIDUALLY
AND AS OWNER OF WARM
SPRINGS/BERMUDA L.L.C., A
NEVADA LIMITED LIABILITY
COMPANY,
Appellant,

vs.

RON ROBINSON, INDIVIDUALLY AND
AS MANAGING MEMBER OF
BERMUDA/WARM SPRINGS L.L.C.;
R.V. JONES, INDIVIDUALLY AND AS
AN OWNER OF BERMUDA/WARM
SPRINGS L.L.C.; AND
BERMUDA/WARM SPRINGS L.L.C., A
NEVADA LIMITED LIABILITY
COMPANY,
Respondents.

No. 37699

FILED

NOV 21 2002

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

ORDER OF AFFIRMANCE

This is an appeal from a district court order granting and denying injunctive relief in a quiet title action. Respondents and appellant formed Bermuda/Warm Springs L.L.C. (Bermuda) to purchase a thirteen-acre parcel of commercial real estate. Bermuda purchased the property, but the seller reversed its name and deeded the parcel to "Warm Springs Bermuda L.L.C.," (Warm Springs) which did not exist at that time. Four months later, appellant incorporated Warm Springs with himself as the sole owner and claimed title to the parcel. The district court, however, determined that title vested in Bermuda at escrow and denied appellant's request for an injunction. The district court, instead, granted respondents injunctive relief, enjoining appellant from interfering with respondents' ownership of the property.

Appellant argues that the district court erred because it issued a de facto sua sponte summary judgment, and found no genuine issues of material fact. This court, however, has jurisdiction to consider the district court's ruling only insofar as it granted and denied injunctive relief.¹ This court reviews a district court's grant or denial of a permanent injunction for abuse of discretion.² Sufficient evidence must exist in the record to support the district court order.³

"Permanent injunctive relief is available where there is no adequate remedy at law . . . , where the balance of equities favors the moving party, and where success on the merits has been demonstrated."⁴

¹A summary judgment, not certified as final under NRCP 54(b), is not final and appealable unless it resolves all the rights and liabilities of each party. Lee v. GNLV Corp., 116 Nev. 424, 426, 996 P.2d 416, 417 (2000). The judgment here was not certified under NRCP 54(b) and the district court only entered a partial judgment, leaving several issues yet to be determined. However, this court does have jurisdiction over appeals from interlocutory orders granting or denying injunctive relief, without resort to NRCP 54(b). NRAP 3A(b)(2) ("An appeal may be taken: . . . (2) From an order . . . granting or refusing to grant . . . an injunction."); State ex rel. List v. Mirin, 92 Nev. 503, 506, 553 P.2d 966, 967 (1976) (rejecting "the contention that an appeal from an order denying an injunction requires a 54(b) certification if it disposes of less than all of the claims of the parties").

²Director, Dep't of Prisons v. Simmons, 102 Nev. 610, 613, 729 P.2d 499, 502 (1986), overruled on other grounds by Las Vegas Novelty v. Fernandez, 106 Nev. 113, 787 P.2d 772 (1990); A.L.M.N., Inc. v. Rosoff, 104 Nev. 274, 277, 757 P.2d 1319, 1321 (1988).

³Simmons, 102 Nev. at 613, 729 P.2d at 501-02.

⁴43 C.J.S. Instructions § 16 at 777 (1978), quoted in State Farm Mut. Auto. Ins. v. Jafbros Inc., 109 Nev. 926, 928, 860 P.2d 176, 178 (1993).


The record shows that because of appellant's claim to the property, respondents could neither continue development nor obtain financing for the property, and were deprived of use and control of the property. The district court found that without an injunction all injury would rest on respondents, while any injury to appellant could be rectified after a trial on the merits. Submitted evidence proved that only Bermuda, and not Warm Springs, existed at the time the purchase was completed and the deed of title recorded. Appellant failed to provide any evidence demonstrating that title was properly recorded in the later-formed Warm Springs. We conclude, therefore, that sufficient evidence existed to support the district court's grant of injunctive relief to respondents and denial of injunctive relief to appellant.


Appellant also argues that the court did not hold an evidentiary hearing, that he was not given adequate notice or time to answer respondents' motion or prepare for a contested hearing, and that he was denied a meaningful opportunity to be heard. We conclude that these arguments lack merit. The district court held a hearing to determine the title issue, listened to appellant's arguments, and considered the documentation he presented. Appellant was put on notice of the hearing over one year in advance, when the district court granted respondents' motion to accelerate trial. Appellant had adequate time in which to produce the necessary evidence showing that title vested in Warm Springs. We conclude, therefore, that appellant's due process rights were not violated, and that the district court did not err in granting the respondents' request for injunctive relief.

Having considered appellant's contentions and concluded they lack merit, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Shearing


_____, J.
Leavitt


_____, J.
Becker

cc: Hon. Jennifer Togliatti, District Judge
George R. Carter
Santoro, Driggs, Walch, Kearney, Johnson & Thompson
Clark County Clerk