

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RH KIDS, LLC, A CALIFORNIA  
LIMITED LIABILITY COMPANY,

Appellant,

vs.

NEWREZ LLC D/B/A SHELLPOINT  
MORTGAGE SERVICING, A

DELAWARE LIMITED LIABILITY  
COMPANY,

Respondents.

No. 88001-COA

**FILED**

MAR 18 2025

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

RH KIDS, LLC, A CALIFORNIA  
LIMITED LIABILITY COMPANY,

Appellant,

vs.

NEWREZ LLC D/B/A SHELLPOINT  
MORTGAGE SERVICING, A

DELAWARE LIMITED LIABILITY  
COMPANY,

Respondents.

No. 88080-COA

*ORDER OF AFFIRMANCE*

RH Kids, LLC, appeals from a district court order granting summary judgment (Docket No. 88001) and a post-judgment order awarding respondent NewRez LLC d/b/a Shellpoint Mortgage Servicing, LLC (Shellpoint), attorney fees (Docket No. 88080) in a quiet title action. These cases were consolidated on appeal. See NRAP 3(b)(2). Eighth Judicial District Court, Clark County; Danielle K. Pieper, Judge.

In 2005, the original borrower executed a promissory note to facilitate the purchase of a home. The note was secured by a deed of trust.

The deed of trust was executed in favor of Mortgage Electronic Systems, Inc. as nominee for the original lender, Countrywide Home Loans. The deed of trust was later assigned to Shellpoint.

The original borrower defaulted on the loan in 2009 and the trustee of the deed of trust later recorded a notice of default. The original borrower also neglected to pay HOA assessments and the HOA foreclosed on the property in 2013. RH Kids' predecessor in interest, First 100, purchased the property at the HOA foreclosure sale and subsequently conveyed its interest to Nevada New Builds. Nevada New Builds conveyed its interest via quitclaim deed to RH Kids in 2015.

Nevada New Builds initiated a quiet title action in 2014 seeking to extinguish the deed of trust, and RH Kids later intervened in that action. Shellpoint's predecessor in interest was one of the defendants in that action. In 2018, the district court issued an order granting summary judgment in favor of the defendants and setting aside the HOA foreclosure sale because it concluded the facts demonstrated that the sale was fraudulent and that First 100 colluded with the HOA to purchase the property for only the superpriority lien amount. Because RH Kids' interest in the property stemmed from the improper HOA foreclosure sale, the district court accordingly concluded that RH Kids had no interest in the property and that the deed of trust remained valid. This court affirmed that decision on appeal. *RH Kids, LLC v. Green Tree Servicing, LLC*, No. 76029-COA, 2020 WL 362702 (Nev. Ct. App. Jan. 21, 2020) (Order of Affirmance). The trustee of the deed of trust thereafter recorded a notice of trustee's sale.

RH Kids subsequently sued Shellpoint to quiet title and to halt Shellpoint's pending foreclosure of its deed of trust. In the operative complaint, RH Kids alleged, among other claims, it was either the owner of

the relevant property or had obtained ownership of the property through adverse possession. RH Kids accordingly sought to quiet title to the property in its favor, as well as injunctive and declaratory relief. In addition, RH Kids set forth a claim of wrongful foreclosure. RH Kids also moved for a preliminary injunction to halt the pending sale of the relevant property, which the district court later granted.

Shellpoint answered and filed a counterclaim for unjust enrichment. This matter proceeded to discovery. Shellpoint thereafter filed a motion for summary judgment, arguing, among other things, that RH Kids lacked standing to bring its quiet title action as it had no ownership interest in the property, as evidenced by the orders filed in a previous quiet title action. Shellpoint further argued that RH Kids had not acquired an interest in the property via adverse possession because it had not properly possessed the property in order to do so and had not paid the taxes as required by NRS 11.150.

In addition, Shellpoint asserted that the facts established RH Kids was unjustly enriched and that Shellpoint was therefore entitled to summary judgment in its favor as to its counterclaim. Shellpoint further sought an order vacating the preliminary injunction.

RH Kids opposed the motion. In its opposition, RH Kids asserted that it obtained an ownership interest in the property from New Nevada Builds and noted that the original borrower had entered a stipulation in which he acknowledged that he no longer had an ownership interest in the property. RH Kids also asserted that Shellpoint's arguments concerning adverse possession were irrelevant to this matter. In addition, RH Kids requested time to conduct additional discovery pursuant to NRCP

56(d). Shellpoint thereafter filed a reply, contending that RH Kids failed to demonstrate a genuine dispute of material fact remained.

The district court ultimately concluded the undisputed facts demonstrated that RH Kids did not have an ownership interest in the property and thus lacked standing to pursue its quiet title action. The court noted the previous quiet title action demonstrated that RH Kids did not have an ownership interest in the property. The court further found that RH Kids' attempt to relitigate the ownership decision was barred by issue preclusion. The court also found the undisputed facts demonstrated that RH Kids did not meet the tax-payment requirement of NRS 11.150, and thus did not acquire ownership of the property through adverse possession. In addition, the court concluded Shellpoint was entitled to summary judgment in its favor concerning its counterclaim of unjust enrichment and was entitled to damages in the amount of \$1,649.52. The district court also denied RH Kids' request for a continuance to conduct discovery pursuant to NRCP 56(d). The court accordingly granted Shellpoint's motion for summary judgment and dissolved the preliminary injunction as void ab initio. RH Kids later filed a motion to alter or amend the district court's order, which the district court denied, concluding there was no basis to alter or amend the order granting summary judgment.

Shellpoint subsequently moved for attorney fees, arguing that it was entitled to attorney fees pursuant to NRS 18.010(2)(b) because RH Kids' claims were brought without reasonable grounds. RH Kids opposed the motion. The district court ultimately granted Shellpoint's motion. In so doing, the district court found that RH Kids' claims were brought without reasonable grounds as it knew when it brought the action that it did not have an ownership interest in the property and no facts were produced

supporting its ownership claim. The court also found that attorney fees were warranted after addressing the appropriate factors under *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 455 P.2d 31 (1969). The district court accordingly awarded Shellpoint attorney fees in the amount of \$52,214.90. These appeals followed.

*Summary judgment*

RH Kids challenges the district court's decision to grant summary judgment in favor of Shellpoint and argues the district court erred by concluding it had no ownership interest in the property. This court reviews a district court's order granting summary judgment de novo. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Summary judgment is proper if the pleadings and all other evidence on file demonstrate that no genuine dispute of material fact exists and the moving party is entitled to judgment as a matter of law. *Id.* When deciding a summary judgment motion, all evidence "must be viewed in a light most favorable to the nonmoving party." *Id.* General allegations and conclusory statements do not create genuine disputes of fact. *Id.* at 731, 121 P.3d at 1030-31. The party moving for summary judgment must meet its initial burden of production to show no genuine disputes of material fact exist. *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 602, 172 P.3d 131, 134 (2007). The nonmoving party must then "transcend the pleadings and, by affidavit or other admissible evidence, introduce specific facts that show a genuine [dispute] of material fact." *Id.* at 603, 172 P.3d at 134.

"Standing is a question of law reviewed de novo." *Arguello v. Sunset Station, Inc.*, 127 Nev. 365, 368, 252 P.3d 206, 208 (2011). For standing, "[g]enerally, a party must show a personal injury and not merely a general interest that is common to all members of the public." *Schwartz*

*v. Lopez*, 132 Nev. 732, 743, 382 P.3d 886, 894 (2016). Thus, “a party generally has standing to assert only its own rights.” *Beazer Homes Holding Corp. v. Eighth Jud. Dist. Ct.*, 128 Nev. 723, 731, 291 P.3d 128, 133 (2012).

“A plea to quiet title does not require any particular elements, but each party must plead and prove his or her own claim to the property in question and a plaintiff’s right to relief therefore depends on superiority of title.” *Chapman v. Deutsche Bank Nat’l Tr. Co.*, 129 Nev. 314, 318-19, 302 P.3d 1103, 1106 (2013) (internal quotation marks omitted). In addition, a party must have an interest in real property in order to maintain a claim for quiet title. *See Majuba Mining v. Pumpkin Copper*, 129 Nev. 191, 193, 299 P.3d 363, 364 (2013) (citing *Daly v. Lahontan Mines Co.*, 39 Nev. 14, 23, 151 P. 514, 516 (1915)). Moreover, to bring a claim for declaratory relief, a plaintiff must have standing. *See Knittle v. Progressive Cas. Ins. Co.*, 112 Nev. 8, 10, 908 P.2d 724, 725 (1996) (requiring a plaintiff to establish standing to assert a claim for declaratory relief by establishing the existence of, among other things, a justiciable controversy, a legally protectable interest, and an issue ripe for determination).

First, RH Kids contends there remains a genuine dispute of fact as to the rightful owner of the property and whether the prior quiet title action properly established that it did not have an ownership interest in the property following the HOA foreclosure sale. RH Kids argues it had a claim to ownership of the property either through the conveyance from New Nevada Builds or based on court filings in the first quiet title action concerning the original borrower’s interest in the property.

However, the issue of RH Kids’ ownership of the property following the HOA foreclosure sale was already evaluated in the first quiet title action, with the district court concluding that RH Kids had no

ownership interest in the property and this court affirming that decision on appeal. *See RH Kids*, No. 76029-COA, 2020 WL 362702, at \*1-2. Thus, issue preclusion bars relitigating that issue. *See Alcantara v. Wal-Mart Stores, Inc.*, 130 Nev. 252, 258, 321 P.3d 912, 916 (2014) (stating the four elements of issue preclusion are “(1) the issue decided in the prior litigation must be identical to the issue presented in the current action; (2) the initial ruling must have been on the merits and have become final; . . . (3) the party against whom the judgment is asserted must have been a party or in privity with a party to the prior litigation; and (4) the issue was actually and necessarily litigated” (internal quotation marks omitted)).

Moreover, to the extent RH Kids seeks to present new argument concerning ownership of the property following the HOA foreclosure sale based on documents filed in the first quiet title action, “[i]ssue preclusion cannot be avoided by attempting to raise a new legal or factual argument that involves the same ultimate issue previously decided in the prior case.” *Id.* at 259, 321 P.3d at 916-17. As the issue of RH Kids’ ownership of the property was already determined in the previous quiet title action, we conclude the doctrine of issue preclusion barred RH Kids’ attempt to relitigate that issue. *See id.* at 256, 321 P.3d at 914 (stating that a district court’s decision to apply issue preclusion is reviewed de novo). Accordingly, we conclude that RH Kids is not entitled to relief.

Next, RH Kids contends there remain genuine disputes of fact as to whether it has acquired ownership of the property via adverse possession. RH Kids asserts it has adversely held possession of the property since 2016 and contends that there should have been an inference that it paid property taxes for the property since that time, and thus, it acquired

an ownership interest in the property after the conclusion of the first quiet title action.

“A party claiming adverse possession has the burden to affirmatively establish the necessary facts by clear and competent proof in order to overcome the presumption that possession of the land is under the regular title.” *Biasi v. Leavitt*, 101 Nev. 86, 89-90, 692 P.2d 1301, 1304 (1985); *see also Breliant v. Preferred Equities Corp.*, 112 Nev. 663, 669, 918 P.2d 314, 318 (1996) (“In a quiet title action, the burden of proof rests with the plaintiff to prove good title in himself.”), *abrogated, on other grounds by Delgado v. Am. Family Ins. Grp.*, 125 Nev. 564, 570, 217 P.3d 563, 567 (2009), *as recognized, by In re Frei Irrevocable Tr.*, 133 Nev. 50, 56 n.8, 390 P.3d 646, 652 n.8 (2017). One of the requirements to establish adverse possession, pursuant to NRS 11.150, is “the party or persons, their predecessors and grantors have paid all taxes, state, county and municipal, which may have been levied and assessed against the land for the period mentioned, or have tendered payment thereof.” Accordingly, a party has to “adequately demonstrate that he fulfilled the tax payment requirement contained in NRS 11.150” in order “to establish all facts necessary to constitute an adverse possession.” *Biasi*, 101 Nev. at 90, 692 P.2d at 1304.

In support of its motion for summary judgment, Shellpoint filed the property tax records, which demonstrated that RH Kids did not pay all of the property taxes for the relevant property. Instead, the records demonstrate that RH Kids only paid some of the quarterly installments for the property taxes from 2016 through 2021 but that a different party paid the remaining taxes during that time. Shellpoint also filed RH Kids’ expense report for 2015 to 2023, and that document showed that RH Kids paid substantially less in taxes than the amounts due for the property. In



its opposition to Shellpoint's motion for summary judgment, RH Kids stated that Shellpoint's arguments concerning adverse possession were irrelevant and RH Kids did not produce admissible evidence in support of its underlying adverse-possession claim. Shellpoint's aforementioned documents required RH Kids to do more than make general allegations or conclusory statements concerning this issue but rather it had to introduce specific facts by affidavit or other admissible evidence to demonstrate that there remained a genuine dispute of fact, *see Wood*, 121 Nev. at 731, 121 P.3d at 1030-31; *Cuzze*, 123 Nev. at 602-03, 172 P.3d at 134, but RH Kids failed to do so. Based on the foregoing, we conclude that RH Kids fails to demonstrate a genuine dispute of fact remained as to this issue. Accordingly, we conclude that RH Kids is not entitled to relief based on this argument.

In light of the foregoing, we conclude that RH Kids fails to demonstrate that the district court erred by concluding that RH Kids lacked standing to pursue its quiet title action and accordingly granting Shellpoint's motion for summary judgment.<sup>1</sup> *See Arguello*, 127 Nev. at 368, 252 P.3d at 208; *Wood*, 121 Nev. at 729, 121 P.3d at 1029.

#### *Attorney fees*

Next, RH Kids argues the district court abused its discretion by awarding Shellpoint attorney fees pursuant to NRS 18.010(2)(b). RH Kids asserts the district court abused its discretion by finding that it brought or

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<sup>1</sup>RH Kids does not challenge the district court's decision to grant summary judgment in favor of Shellpoint on any additional grounds. As a result, RH Kids has waived any argument related to the same. *See Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011) (providing that issues an appellant does not raise on appeal are waived).

maintained its claims without reasonable grounds, as RH Kids asserts there were arguable issues as to its ownership interest in the property and the district court's initial decision to enter a preliminary injunction demonstrated there was some merit to its underlying claims.

This court reviews awards of attorney fees for an abuse of discretion. *Chowdhry v. NLVH, Inc.*, 109 Nev. 478, 485, 851 P.2d 459, 464 (1993). A district court abuses its discretion when its findings are not supported by substantial evidence. *Miller v. Miller*, 134 Nev. 120, 125, 412 P.3d 1081, 1085 (2018). Under NRS 18.010(2)(b), the district court may award attorney fees to a "prevailing party" when "the court finds that the claim . . . of the opposing party was brought or maintained without reasonable ground or to harass the prevailing party." There must be evidence in the record supporting the proposition that a claim was brought or maintained without reasonable grounds. *Chowdhry*, 109 Nev. at 486, 851 P.2d at 464. "For purposes of NRS 18.010(2)(b), a claim is frivolous or groundless if there is no credible evidence to support it." *Rodriguez v. Primadonna Co.*, 125 Nev. 578, 588, 216 P.3d 793, 800 (2009).

Here, the district court found that Shellpoint was the prevailing party because the court granted summary judgment in its favor. The court also found RH Kids brought its claims despite evidence demonstrating that it did not have an ownership interest in the relevant property and therefore could not advance claims stemming from such an interest. Based on this finding, the district court found that RH Kids' claims were brought without reasonable grounds. The court further found that the lack of evidence supporting RH Kids' claims of ownership of the property demonstrated that it pursued its claims in bad faith, and RH Kids' bad faith actions also supported Shellpoint's request for attorney fees. *See Allianz Ins. Co. v.*

*Gagnon*, 109 Nev. 990, 996, 860 P.2d 720, 724 (1993) (“[I]f the record reveals that counsel or any party has brought, maintained, or defended an action in bad faith, the rationale for awarding attorney fees is even stronger.”).

In addition, in awarding fees the district court also reviewed the appropriate factors pursuant to *Brunzell*, 85 Nev. at 349-50, 455 P.2d at 33, and found that Shellpoint’s attorneys had comprehensive experience, the work that was required in this matter was considerable and required extensive time and expertise, the attorneys actually performed the work on this matter and did so with time and skill given to each task, and that the attorneys were successful because the district court entered summary judgment in favor of Shellpoint. The court also concluded that the fees charged by Shellpoint’s attorneys were reasonable given their skill, experience, and the amount of time necessary to effectively represent Shellpoint in this matter.

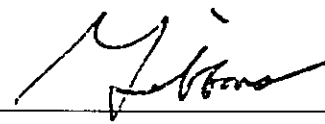
We conclude the district court did not abuse its discretion in finding that RH Kids’ claims were brought without reasonable grounds, as RH Kids presented no facts before the district court demonstrating it had a reasonable basis for asserting a valid ownership interest in the property. See *Bergmann v. Boyce*, 109 Nev. 670, 675, 856 P.2d 560, 563 (1993) (explaining that an analysis under NRS 18.010(2)(b) “depends upon the actual circumstances of the case rather than a hypothetical set of facts favoring plaintiff’s averments”), *superseded by statute on other grounds as recognized in In re DISH Network Derivative Litig.*, 133 Nev. 438, 451 n.6, 401 P.3d 1081, 1093 n.6 (2017). Moreover, the court in granting RH Kids’ request for a preliminary injunction did not specifically address the ownership issue and the court later found that the request for injunctive relief was void ab initio as RH Kids should not have been awarded

injunctive relief. Accordingly, we conclude the court did not abuse its discretion by concluding that RH Kids' claims were brought without reasonable grounds. In addition, the court's findings pursuant to the *Brunzell* factors are supported by the record. Therefore, we discern no abuse of discretion in the district court's award of attorney fees in favor of Shellpoint. *See Chowdhry*, 109 Nev. at 485, 851 P.2d at 464.

In light of the foregoing, we

ORDER the judgments of the district court AFFIRMED.<sup>2</sup>

  
\_\_\_\_\_, C.J.  
Bulla

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Westbrook

cc: Hon. Danielle K. Pieper, District Judge  
Persi J. Mishel, Settlement Judge  
Hong & Hong  
Akerman LLP/Las Vegas  
Natalie L. Winslow  
Fennemore Craig P.C./Reno  
Eighth District Court Clerk

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<sup>2</sup>Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.