


IN THE SUPREME COURT OF THE STATE OF NEVADA

MMJ AMERICA JS LLC, A NEVADA
LIMITED LIABILITY COMPANY,
Appellant,
vs.
AZG LIMITED PARTNERSHIP, A
NEVADA LIMITED PARTNERSHIP,
Respondent.

No. 87507

FILED

MAY 15 2025

ELIZABETH A. BROAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a motion to set aside a default judgment. Eighth Judicial District Court, Clark County; Jessica K. Peterson, Judge.

Respondent AZG Limited Partnership (AZG) sued MMJ America Holding Company LLC (MMJC) and appellant MMJ America JS LLC (MMJN) seeking repayment of a \$300,000 loan. MMJC and MMJN answered together, denying the alleged breach of contract. After motions practice and the close of discovery, the parties confirmed they were trial ready. The attorney representing MMJC and MMJN thereafter withdrew. After MMJC and MMJN failed to retain new counsel, the district court, on AZG's motion, struck their answer and entered a default. In support of its application for a default judgment, AZG furnished exhibits, including emails, text screenshots, and a declaration from AZG's trustee stating that MMJC and MMJN are directly affiliated with one another and liable for the loan. After a prove-up hearing where MMJC and MMJN failed to appear, the district court entered a \$300,000 default judgment against them.

Roughly two years later, MMJN moved to set aside the default judgment. It primarily argued that the declaration AZG submitted for the prove-up hearing fraudulently stated that MMJN and MMJC are directly

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affiliated and that both are liable for the loan, unlike the declaration submitted with AZG's earlier summary judgment motion against MMJC. The district court denied the motion, finding that the representations in the declarations did not satisfy the clear and convincing burden for NRCP 60(d)(3) relief. This appeal followed.

MMJN challenges the district court's decision to deny the NRCP 60 motion. We conclude that the district court was within its discretion in denying MMJN's motion. *Rodriguez v. Fiesta Palms, LLC*, 134 Nev. 654, 656, 428 P.3d 255, 257 (2018) ("The district court has wide discretion in deciding whether to grant or deny a motion to set aside a judgment under NRCP 60(b)."); *NC-DSH, Inc. v. Garner*, 125 Nev. 647, 657, 218 P.3d 853, 861 (2009) (observing that NRCP 60(d)(3) relief is "addressed to the sound discretion of the trial court").

First, a motion under NRCP 60(b) must be filed "not more than 6 months after . . . the date that written notice of entry of the judgment or order was served." NRCP 60(c). MMJN filed its motion well beyond that deadline. Thus, to the extent MMJN sought relief under an excusable neglect theory, the district court properly denied the motion.

Second, in seeking to set aside the default judgment under NRCP 60(d)(3) for fraud upon the court, MMJN focused on AZG's representations about MMJN's liability on the loan. MMJN asserted that AZG manufactured facts and information without any basis, and that MMJN had put forth information contradicting AZG's original representations and the representations in the second declaration. Fraud upon the court, however, is limited to "fraud which does, or attempts to, subvert the integrity of the court itself," or "fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner

its impartial task of adjudging cases.” *NC-DSH*, 125 Nev. at 654, 218 P.3d at 858. It thus applies to “only the most egregious misconduct.” *Occhiuto v. Occhiuto*, 97 Nev. 143, 146 n.2, 625 P.2d 568, 570 n.2 (1981). And “[a] party seeking to vacate a final judgment based on fraud upon the court bears a heavy burden” to establish such fraud by “clear and convincing evidence.” *NC-DSH*, 125 Nev. at 657, 218 P.3d at 860-61.

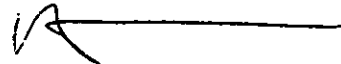
In both declarations at issue, AZG’s trustee consistently stated MMJN and MMJC’s joint repayment liability and that their shared CEO requested the loan. AZG supported those two points with exhibits. To the extent there are differences in the two declarations, we note that the declarations served different purposes. The first one supported a summary judgment motion when liability was still in question, whereas the second one supported damages after liability had been established by default. *Est. of Lomastro v. Am. Fam. Ins. Grp.*, 124 Nev. 1060, 1068, 195 P.3d 339, 345 (2008) (“Entry of default acts as an admission by the defending party of all material claims made in the complaint.”). That the second declaration included more statements about MMJC and MMJN’s affiliation thus does not establish fraud on the court. Nor does anything else in the record. Relief for fraud upon the court is rare, and under these facts, the district court properly declined to set aside the default judgment under NRCP 60(d)(3).

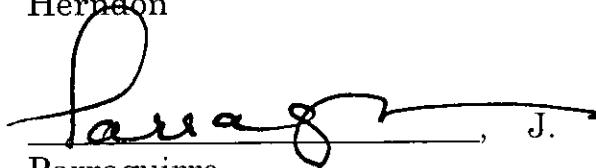
Finally, MMJN argues that the district court “erred by failing to meaningfully consider, let alone grant [MMJN’s] motion under NRCP 55(c).” Below, MMJN asked the district court to set aside the entry of default under NRCP 55(c) if the court granted NRCP 60 relief and set aside the default judgment. Because we conclude that the district court properly declined to set aside the default judgment under NRCP 60, MMJN’s NRCP

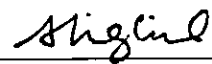
55(c) argument is moot or otherwise lacks merit. NRCP 55(c) (allowing a court to “set aside an entry of default for good cause”).

Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Herndon


_____, J.
Parraguirre


_____, J.
Stiglich

cc: Hon. Jessica K. Peterson, District Judge
Dickinson Wright PLLC/Las Vegas
HOA Lawyers Group, LLC
Eighth District Court Clerk