

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MARIA ROSA DOS SANTOS,
Appellant,
vs.
MARK VINCENT DREIBELBIS,
Respondent.

No. 89249-COA

FILED

SEP 16 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

Maria Rosa Dos Santos appeals from a district court annulment decree. Eighth Judicial District Court, Family Division, Clark County; Mary D. Perry, Judge.

Maria, originally from Argentina and living in the United States on an expired visa, and respondent Mark Vincent Dreibelbis, a United States citizen and real estate agent in Nevada, met through a dating app in late 2021. Despite a language barrier, as Mark spoke English and Maria spoke only Spanish, they began dating and married in Las Vegas in February 2022. Maria then moved from Utah to live with Mark in Henderson.

During the marriage, Mark supported Maria financially. Mark also began assisting Maria with applying for permanent residency status in the United States, but the application was never filed because his real estate business began to struggle as mortgage interest rates rose nationwide. As their financial difficulties mounted, their relationship deteriorated. By October 2022, Maria had moved into a friend's home and reported to police that Mark had strangled her during a domestic violence incident. Police observed visible injuries on Maria, went to Mark's residence, and arrested him; he denied the allegations. Although Mark was

subsequently charged with domestic battery by strangulation in connection with the incident, the charge was later dismissed after Maria failed to appear to testify.

In May 2023, Maria filed a complaint for divorce. Mark responded by filing an answer and counterclaim for annulment, alleging that Maria had married him solely to obtain immigration benefits and had fabricated the domestic violence allegations to support a petition for permanent residency under the Violence Against Women Act. In support of his counterclaim for annulment, Mark submitted translated WhatsApp messages, allegedly exchanged between Maria and her daughter after the marriage, in which Maria appeared to admit she had fabricated the domestic violence allegations and used the marriage to obtain legal status.

During a bench trial, Maria denied authoring the messages and argued they were fabricated by Mark, who had created her WhatsApp account and had access to her devices.¹ Meanwhile, Mark conceded he was aware of her immigration status prior to the marriage and had agreed to provide financial support and assist her in obtaining the documentation needed to establish legal residency.

Following the bench trial, the district court granted Mark's counterclaim for annulment, finding that Maria had fraudulently induced the marriage solely for immigration purposes and that her domestic violence allegations were not credible. The court annulled the marriage under NRS 125.340(1), finding that Mark had "sufficiently proven" the allegations in his counterclaim. This appeal followed.

¹It is unclear from the record when Mark created Maria's WhatsApp account.

This court reviews annulment proceedings for an abuse of discretion. *Williams v. Williams*, 120 Nev. 559, 566-67, 97 P.3d 1124, 1129 (2004). NRS 125.340(1) provides that, “[i]f the consent of either party was obtained by fraud and *fraud has been proved*, the marriage shall be void from the time its nullity shall be declared by a court of competent authority.” (Emphasis added.) A party seeking an annulment for fraud under NRS 125.340(1) must prove fraud by clear and convincing evidence. *Irving v. Irving*, 122 Nev. 494, 497, 134 P.3d 718, 721 (2006).

On appeal, Maria argues that the district court applied the wrong evidentiary standard by accepting sufficient proof rather than the required clear and convincing evidence to establish fraud. In response, Mark argues that the district court correctly granted the annulment under NRS 125.340(1) by finding fraud proven through clear and convincing evidence, even though the court did not explicitly use those exact words. We agree with Maria.

The district court stated in the decree of annulment that Mark had “sufficiently proven” the allegations in his counterclaim, which alleged that Maria committed fraud by inducing Mark to marry her solely to obtain immigration benefits. However, the court did not identify or apply the correct legal standard of clear and convincing evidence.

Moreover, under Nevada law, to support the finding of fraud, the district court must determine that certain elements have been established. For example, in order to support a finding of fraudulent inducement, the court must find that (1) a false representation was made, (2) the defendant had knowledge or belief that the representation was false, (3) the defendant intended to induce the plaintiff to rely on the statement, (4) the plaintiff justifiably relied on the statement, and (5) damages were

incurred based on that reliance.² *Bulbman, Inc. v. Nev. Bell*, 108 Nev. 105, 110-11, 825 P.2d 588, 592 (1992) (setting forth the elements of fraud in the context of a contract and tort dispute); *see also, e.g., Leax v. Leax*, 305 S.W.3d 22, 29 (Tex. App. 2009) (identifying the foregoing elements as the elements of fraudulent inducement in the annulment context). Here, the district court did not address any of the elements of fraud in its order, making it unclear whether the court performed the proper analysis in determining that Mark had “sufficiently proven” his allegations. *See Davis v. Ewalefo*, 131 Nev. 445, 450, 352 P.3d 1139, 1142 (2015) (holding that “deference is not owed to legal error, or to findings so conclusory they may mask legal error” (internal citations omitted)).

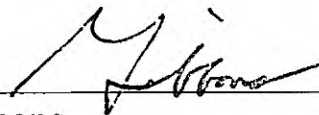
And although the district court found that Maria lacked credibility on certain issues, intended to fabricate a domestic violence claim, and married Mark for personal gain, those findings do not, without more, establish that she fraudulently induced him to marry her under the applicable standard of clear and convincing evidence required when analyzing the elements of fraud. Furthermore, it is unclear whether the court would have reached the same result had it performed the proper analysis. *See In re Guardianship of B.A.A.R.*, 136 Nev. 494, 500, 474 P.3d 838, 844 (Ct. App. 2020) (reversing and remanding for further proceedings where the district court did not apply the correct legal standard and where it was unclear whether the court would have reached the same conclusion had it applied the correct standard); *see also LVMPD v. Blackjack Bonding*,

²Although the damages element is an amorphous concept in the annulment context, we conclude it concerns whether a marriage occurred under fraudulent circumstances, rather than whether monetary damages were incurred by a party to the marriage.

Inc., 131 Nev. 80, 89, 343 P.3d 608, 614 (2015) (holding that an abuse of discretion can occur when a district court “disregards controlling law”). As a result, we must reverse the district court’s decree of annulment and remand for further proceedings. *See In re Guardianship of B.A.A.R.*, 136 Nev. at 500, 474 P.3d at 844. And, if the district court concludes on remand that Mark did not prove fraud by clear and convincing evidence as necessary to set aside the marriage, the district court should enter a decree of divorce. Based on the foregoing, we

ORDER the judgment of the district court REVERSED AND REMAND this matter to apply the correct evidentiary standard of clear and convincing evidence and properly analyze the elements of fraud.³


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

³Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered them and conclude that they either do not present a basis for relief or need not be reached given our disposition of this appeal.

cc: Hon. Mary D. Perry, District Judge, Family Division
Pecos Law Group
Bianka Dodov
Eighth District Court Clerk
Barbara Buckley
Snell & Wilmer, LLP/Las Vegas
Paul C. Ray, Chtd.