IN THE SUPREME COURT OF THE STATE OF NEVADA

PECOS PLAZA PARTNERS, A PARTNERSHIP,
Appellant,
vs.
JOHNSON COMMERCIAL REAL ESTATE, INC., A NEVADA CORPORATION, AND KABUTO INTERNATIONAL (NEVADA) CORPORATION, A NEVADA CORPORATION, INDIVIDUALLY AND AS JOINT VENTURERS IN PECOS-TROPICANA JOINT VENTURE, A NEVADA JOINT VENTURE,
Respondents.

No. 39016

FILED

MAY 06 2003

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY J. Richards
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a special order after final judgment, denying appellant's request for prejudgment interest on its unjust enrichment award. For the following reasons, we affirm.

Appellant Pecos Plaza Partners (PPP) argues that the unjust enrichment award is for past damages accruing from the time respondents removed the wall and created de facto access across its property, and so prejudgment interest is appropriate and should be awarded.[1] It further argues that since the issue of prejudgment interest on the unjust

[1]See NRS 17.130(2) (providing for prejudgment interest from the date the summons and complaint are served, except for future damages, which draw interest from the date judgment is entered); Hazelwood v. Harrah's, 109 Nev. 1005, 862 P.2d 1189 (1993), overruled on other grounds by Vinci v. Las Vegas Sands, 115 Nev. 243, 984 P.2d 750 (1999).

enrichment award was never raised in the first appeal, the order on rehearing does not bar prejudgment interest.

Respondents argue that the law of the case doctrine bars PPP's appeal, and that PPP's remedy was to seek rehearing in the previous appeal.[2] In addition, they assert that prejudgment interest is not appropriate because as structured, the unjust enrichment award is for future damages, not past damages.[3] Specifically, the reason this court gave for granting rehearing and reinstating the unjust enrichment award was the district court's amended judgment including an express, recordable easement. This easement was not granted until entry of the amended judgment. Therefore, respondents reason, the unjust enrichment award represents future damages resulting from the amended judgment's express easement, and so prejudgment interest is not appropriate.

Our review of our orders in the previous appeal indicates that the prejudgment interest award was reversed, and that the district court's instructions on remand concerned only an award of attorney fees to PPP. The law of the case doctrine provides that an appellate decision is binding as to issues disposed of in the decision.[4] Here, the order on rehearing specifically stated that the prejudgment interest award was reversed. In

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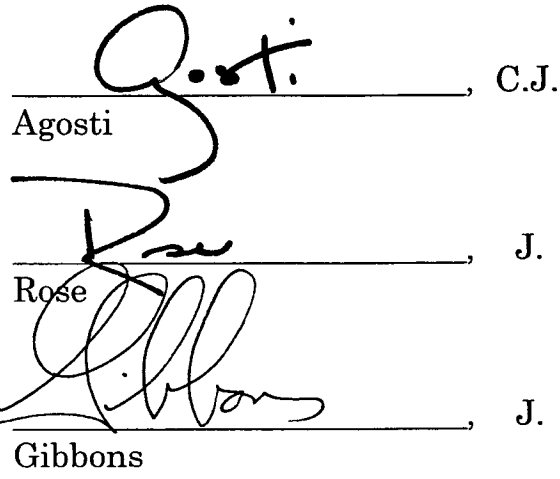
[2]See LoBue v. State ex rel. Dep't Hwys., 92 Nev. 529, 554 P.2d 258 (1976) (noting that law of the case means that an appellate court's decision is final with respect to issues disposed of in the decision).

[3]See NRS 17.130(2); LTR Stage Lines v. Gray Line Tours, 106 Nev. 283, 792 P.2d 386 (1990).

[4]See LoBue, 92 Nev. 529, 554 P.2d 258.

addition, the district court was bound by our instructions in that order to consider only attorney fees, not prejudgment interest.[5] Accordingly, we

ORDER the judgment of the district court AFFIRMED.



_____, C.J.
Agosti

_____, J.
Rose

_____, J.
Gibbons

cc: Hon. Michael A. Cherry, District Judge
Mushkin & Hafer
Hale Lane Peek Dennison Howard & Anderson/Reno
Kummer Kaempfer Bonner & Renshaw
Clark County Clerk

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[5]See id.