

IN THE SUPREME COURT OF THE STATE OF NEVADA

SCOTT V. RULAND,  
Appellant,  
vs.  
CATHERINE M. PROBERT,  
Respondent.

No. 41312

FILED

SEP 05 2003

ORDER REVERSING AND REMANDING

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

This is a proper person appeal from a partial summary judgment that approved the sale of appellant Scott Ruland's real property and mobile home in a partition action. Ruland purchased a plot of land and a mobile home with funds provided by his ill mother, Eleanor. Title to the properties was taken in Scott Ruland's name. Ruland and respondent Catherine Probert lived in the mobile home with Eleanor and cared for her.

Ruland sold one-half of his interest in the mobile home to Probert. Ruland also purportedly gave Probert an unlimited power of attorney and quitclaimed the real property to himself and Probert as joint tenants.

In April 2002, Probert retained counsel and sued Ruland, seeking a "partition by sale" of the real property and mobile home. Ruland filed a proper person answer, alleging that Probert had an ownership interest only in the mobile home and not in the real property.

In February 2003, Probert moved for partial summary judgment, seeking confirmation of her one-half ownership interest in the

real property. Attached to the motion were the quitclaim deed; the bill of sale for the mobile home; three letters purportedly from Ruland acknowledging Probert's one-half ownership interest in the real property; a portion of Ruland's 1997 federal income tax return that bears the handwritten notation, "sold ½ house & land, still reside in other half"; and a written statement to the Social Security Administration in which Ruland purportedly crossed out the assertion that Probert "bought into the house" and added, "bought into the mobile home & land." Ruland opposed summary judgment, declaring in an affidavit that Probert's evidence was fabricated, and that Probert had an ownership interest in only the mobile home. Ruland also proffered Eleanor's affidavit, in which she declared that Ruland and Probert repeatedly quarreled about Probert signing Ruland's name on "his checks and other things."

On April 1, 2003, the district court granted Probert's motion, ordering the mobile home and real property sold, with the proceeds to be held by the court pending trial. Ruland appealed. This court temporarily stayed the partial summary judgment, and directed Probert to file a response, addressing the propriety of summary judgment in light of the questionable nature of some of the documents. Probert responded, simply arguing that, "[i]n order to believe [Ruland's] story, it has to be believed that [Probert] forged [Ruland's] signature eight times over a period of two years."

Summary judgment is inappropriate if the pleadings and evidence demonstrate a genuine issue of material fact.<sup>1</sup> “A genuine issue of material fact is one where the evidence is such that a reasonable trier of fact could return a verdict for the non-moving party.”<sup>2</sup> We conclude that a genuine issue of material fact exists as to whether Ruland conveyed any interest in his real property to Probert, as a reasonable trier of fact might conclude that Probert’s evidence was fabricated. The dates on the power of attorney form appear altered, the quitclaim deed was notarized six weeks before it was signed, and Probert may have a history of forging Ruland’s signature. Further, the language in the September 23, 1997 letter stating “\$22,500 for ½ mobile home and ½ land” appears to be in different handwriting than the rest of the letter. And the social security statement contains two distinctly different handwritings, one of which changes the other’s statement that Probert “bought into the house” by substituting “bought into the mobile home and land.” This evidence, in conjunction with the affidavit testimony of Ruland and Eleanor, is sufficient to preclude summary judgment, given that a forged deed passes no title.<sup>3</sup>

---

<sup>1</sup>NRCP 56(c).

<sup>2</sup>Coker Equip. v. Great Western Capital, 110 Nev. 1266, 1268, 885 P.2d 1321, 1323 (1994).

<sup>3</sup>Zurstrassen v. Stonier, 786 So. 2d 65, 68 (Fla. Dist. Ct. App. 2001); Beasley v. Burns, 7 S.W.3d 768, 769 (Tex. App. 1999).

Accordingly, we

ORDER the judgment of the district court REVERSED, and we REMAND this matter to the district court for proceedings consistent with this order.<sup>4</sup>

Becker, J.  
Becker

Shearing, J.  
Shearing

Gibbons, J.  
Gibbons

cc: Hon. Stewart L. Bell, District Judge  
Darrell Lincoln Clark  
Scott V. Ruland  
Clark County Clerk

---

<sup>4</sup>The temporary stay entered in this case on June 5, 2003, is hereby vacated. Although Ruland was not granted permission to file documents in this matter in proper person, see NRAP 46(b), we have received and considered his proper person documents. The relief requested therein, including the request for transcripts, is denied as moot. Finally, we direct the clerk of this court to return unfiled Probert's counsel's affidavit, received June 30, 2003, and Ruland's opening brief, received August 11, 2003. Probert's counsel's request for guidance concerning a briefing schedule, received by this court on August 18, 2003, is denied as moot.