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Summary of City of Oakland v. Desert Outdoor Advertising, Inc., 127 Nev. Adv. Op. No. 46

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Summary

Appeal from a district courts granting of a motion for NRCP 60(b) relief from a domesticated foreign judgment.

Disposition/Outcome

The Supreme Court of Nevada affirmed because final judgments entered in courts of other states that punish entities rather than award private remedies are not enforceable in Nevada courts.

Factual and Procedural History

In 2003, Desert Outdoor Advertising (“Desert”) erected a billboard for the purposes of advertising within the city limits of the City of Oakland (“Oakland”). Oakland sent Desert a notice to abate, claiming the sign advertised for businesses that were not located on the property in violation of Oakland Municipal Code. After two months, Oakland sent the nonresponsive Desert another notice to abate, instructing Desert to remove the sign within one month. After failing to remove the sign in a timely manner, Oakland filed suit against Desert in California district court, which ultimately found Desert engaged in unlawful business practices. The California court entered a judgment against Desert for (1) \$124,000 in civil penalties, (2) \$263,000 in disgorged profits, and (3) \$92,353.75 in attorneys’ fees.

In February of 2008, Oakland filed its California judgment in Nevada district court, seeking enforcement of the judgment under the Uniform Enforcement of Foreign Judgments Act (“UEFJA”). The district court granted Desert’s motion to set aside the foreign judgment and quash its execution, concluding that because California’s judgment was penal, it was not entitled to full faith and credit. This appeal followed.

Discussion

The Full Faith and Credit Clause and the UEFJA

In writing for the Court, Justice Cherry first noted that Nevada’s courts must respect final judgments entered in sister states.² To further the principle of comity, Nevada adopted the UEFJA in NRS 17.330 through 17.400. Nevada’s UEFJA applies to all foreign judgments filed

¹ By Dan Hill.

² *Rosenstein v. Steele*, 103 Nev. 571, 573, 747 P.2d 230, 231 (1987).

in Nevada district courts for the purpose of enforcing the judgment in Nevada.³ A foreign judgment is “any judgment of a court of the United States or any other court which is entitled to full faith and credit in this state.”⁴ The United States Supreme Court has held that the Full Faith and Credit Clause does not apply to penal judgments.⁵

In *Huntington*, the plaintiff successfully sought joint and several liability on corporate officers for making materially false representations in New York.⁶ The plaintiff then filed in Maryland court to have the New York judgment enforced in that state.⁷ When the case reached the Supreme Court, the Court first noted that no country enforces the penal laws of another.⁸ The Court further held that state penal laws likewise are unenforceable in other states.⁹ The dispositive inquiry whether a state’s judgment is enforceable in other states is whether the judgment is a public punishment, which would be unenforceable, or private remedy, which would be enforceable.¹⁰

The Supreme Court of Nevada here held that the *Huntington* penal exception to the Full Faith and Credit Clause is controlling and not dictum, because it was necessary to determine the question in *Huntington*. Accordingly, the Court held that penal judgments from other states do not fall under Nevada’s UEFJA.

The California judgment

The test to determine whether a judgment is penal is whether it is “in its essential character and effect, a punishment of an offense against the public, or a grant of a civil right to a private person.”¹¹ Here, the Supreme Court of Nevada found that Oakland was not a private entity seeking a private remedy, but a public one seeking penalties for Desert’s violation of Oakland codes. The Court further found private citizens could not have sued Desert to enforce the violated codes. Accordingly, the Supreme Court of Nevada held that Nevada courts cannot enforce the judgment Oakland won against Desert in California district court.¹²

Conclusion

Under *Huntington*, penal laws are not subject to Nevada’s Uniform Enforcement of Foreign Judgments Act. Accordingly, final judgments entered in courts of other states that punish entities rather than award private remedies are not enforceable in Nevada courts.

³ NEV. REV. STAT. 17.340 (1987).

⁴ *Id.*

⁵ *Huntington v. Attrill*, 146 U.S. 657, 666, 672-73 (1892).

⁶ *Huntington*, 146 U.S. at 660-62.

⁷ *Id.*

⁸ *Id.* at 666.

⁹ *Id.* at 673-74.

¹⁰ *Id.*

¹¹ *Id.* at 683.

¹² Justices Saitta, Gibbons, and Parraguirre concurred.