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Kuptz-Blinkinsop v. Blinkinsop, 136 Nev. Adv. Op. 40 (Jul. 9, 2020)

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REAL PROPERTY – APPLICATION OF STATUTES ON DIVORCE DECREE

SUMMARY

The Court determined the lower court was correct in granting an ex-husband’s motion for summary judgment and quiet title. There was no genuine issue of material fact, however the Court held that the ex-husband was entitled to summary judgment as a matter of law. The Court concluded that the holding of *Davidson v. Davidson* did not apply to this case; thus, there was no statute of limitation issue,² the divorce decree in controversy did not require renewal, and the initial action was barred by claim preclusion.

BACKGROUND

Trisha Kuptz-Blinkinsop and Thomas Blinkinsop jointly owned real property at 2042 Deer Springs Drive in Henderson, Nevada (Deer Springs property). During divorce proceedings, Trisha requested equal distribution and division of all community property and separate property assets. The 2009 divorce decree awarded the Deer Springs property to Thomas as a sole and separate property and subsequently ordered Trisha to execute a quitclaim deed to remove her name from the title within ten days. Trisha did not execute the quitclaim deed and Thomas never brought action to enforce the order.

In 2018, Trisha claimed that she was still 50-percent owner of the Deer Springs property, contending neither she nor Thomas renewed the divorce decree as required by NRS 17.214³ and *Davidson*,⁴ causing the decree to expire under NRS 11.190.⁵ Thomas counterclaimed for quiet title and sought a judicial declaration of sole ownership of the Deer Springs property and judicial estoppel against Trisha claim to any interest in the property. Thomas also moved for summary judgment, stating that neither NRS 17.214 nor *Davidson* applied, and Trisha’s partition action was barred by claim preclusion. The district court granted summary judgment and quieted title in favor of Thomas, declaring him as the sole owner of the Deer Springs property. Trisha appealed.

DISCUSSION

Summary judgment is proper if no genuine issue of material facts exist, and “the moving party is entitled to a judgment as a matter of law.”⁶ Neither party disputes the material facts in this case. Therefore, the issue remains whether Thomas is entitled to summary judgment as a matter of law because (1) *Davidson* does not apply, (2) Thomas was not required to renew the divorce decree, (3) Trisha’s action was barred by claim preclusion.

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² *Davidson v. Davidson*, 132 Nev. 709, 718, 382 P.3d 880, 886 (2016).

³ NEV. REV. STAT. § 17.214 (2019).

⁴ *Davidson*, 132 Nev. at 718, 382 P.3d at 886.

⁵ NEV. REV. STAT. § 11.190 (2019).

⁶ *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005).

Whether Davidson applies to the facts of this case

In *Davidson*, the Court held that 2014 motion to enforce a 2006 divorce decree to pay one-half of the marital home equity was time-barred under six-year statute of limitations of NRS 11.190(1)(a).⁷ Had the moving party renewed her judgment pursuant to NRS 17.214, discussed below, the 2006 divorce decree would have been enforceable.⁸

Trisha argues the Thomas's quiet title and declaratory relief counterclaims are time-barred, as *Davidson* applies the NRS 11.190(1)(a) six-year statute of limitations to all aspect of the divorce decree. However, NRS 11.190 specifically excludes actions for the recovery of real property.⁹ Therefore, the holding of *Davidson* does not apply to the case at bar.

Whether Thomas was required to renew the divorce decree pursuant to NRS 17.214

Trisha argues that the divorce decree expired, and was therefore void, as Thomas did not renew it as required by NRS 17.214. The language of NRS 17.214 applies only to a "judgment creditor" or his or her successor attempting to renew an unpaid judgment.¹⁰ As Thomas is not a judgment creditor or successor, he was not required to renew the divorce decree pursuant to NRS 17.214. The Court declined to interpret the statute to require property owners to renew their judgments every six-years to preserve their ownership rights.

Whether Trisha's partition action was barred by claim preclusion

Finally, the Court addressed if Trisha's action was barred by claim preclusion. The Court has adopted a three-part test for claim preclusion: "(1) the parties or their privies are the same, (2) the final judgment is valid, and (3) the subsequent action is based on the same claims or any part of them that were or could have been brought in the first case."¹¹

Thomas successfully illustrated that Trisha's action was claim precluded by the divorce decree. Because the parties are the same in both the divorce proceedings and the partition action, the first part of the claim preclusion test is satisfied. Secondly, pursuant to the summary proceedings for divorce explained in NRS 125.18, the divorce decree is classified as a final judgment.¹² Furthermore, Trisha's partition action was based on the prior divorce action which determined the ownership distribution of the Deer Springs property satisfying the third and final part of the claim preclusion test. Thus, Trisha's partition action was barred by claim preclusion

CONCLUSION

The Nevada Supreme Court held that the lower court's grant of summary judgment and quiet title in favor of Thomas was correct. The *Davidson* application of NRS 11.190(1)(a) does not apply to distribution of real property as the statute itself explicitly exclude real property. Thomas was not required to renew the divorce decree under NRS 14.214. Finally, Trisha's partition action was barred by claim preclusion.

⁷ *Davidson*, 132 Nev. at 711–12, 382 P.3d at 881–82.

⁸ *Id.* at 718, 382 P.3d at 886 (second alteration in original).

⁹ NEV. REV. STAT. § 11.190 (2019) ("[A]ctions other than those for the recovery of real property, unless further limited by specific statute, may only be commenced . . . [w]ithin 6 years.")

¹⁰ NEV. REV. STAT. § 17.214 (2019).

¹¹ *Five Star Capital Corp. v. Ruby*, 124 Nev. 1048, 1054, 194 P.3d 709, 713 (2008) (citation omitted).

¹² NEV. REV. STAT. § 125.18 (2019).