

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RENATE DEMARTINI,
Appellant,
vs.
DEMARTINI LAND, A PARTNERSHIP,
Respondent.

No. 63277

FILED

MAR 02 2015

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a pro se appeal from a district court order dismissing a declaratory relief action. Second Judicial District Court, Washoe County; Patrick Flanagan, Judge.

Appellant filed the action below seeking declaratory relief to establish the existence and scope of a partnership, naming as the only defendant respondent, which was the purported partnership.¹ Thereafter, 14 individuals, who were alleged to be the partners making up this partnership, moved to dismiss the action.² This motion asserted that appellant's claims were barred by the doctrine of claim preclusion as they could have been raised in an earlier California action. Appellant joined in her co-plaintiff's opposition to the motion, and the alleged partners filed a

¹Appellant's co-plaintiff in the action below has not appealed from the underlying dismissal order, and thus, is not a party to this matter.

²The alleged partners were not originally named or joined as defendants but were served with the summons and complaint. Although it was argued below that they lacked standing to file the motion to dismiss, the district court concluded that they had standing, and appellant has not challenged that finding on appeal. Thus, we do not address this issue. See *Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (explaining that an appellate court need not consider claims not cogently argued). We nonetheless note that the alleged partners have not been named as parties to this appeal.


reply. Following a hearing, the district court granted the motion to dismiss on claim preclusion grounds.

On appeal, appellant argues that the dismissal of the complaint should be reversed because the district court failed to afford her an opportunity to speak at the hearing on the motion to dismiss. To the extent that this argument seeks to raise a due process issue, appellant received due process insofar as she had notice of the motion to dismiss and an adequate opportunity to be heard by filing a written opposition to the motion. See *J.D. Constr., Inc. v. IBEX Int'l Grp., LLC*, 126 Nev. ___, ___, 240 P.3d 1033, 1041 (2010) (“Due process is satisfied where interested parties are given an ‘opportunity to be heard at a meaningful time and in a meaningful manner.’” (quoting *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976))). Moreover, appellant does not identify any argument that she would have presented to the district court at the hearing on the motion to dismiss that was not presented by counsel for her co-plaintiff. Thus, even assuming that the district court’s failure to give appellant an opportunity to speak at the hearing constituted error, any such error does not provide a basis for reversal of the district court’s order. See NRCP 61 (“The court at every stage of the proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties.”).

Next, appellant contends that the district court erred in applying the doctrine of claim preclusion to dismiss the case because there was no evidence that the partnership was ever named as a party to the California action. In order for claim preclusion to apply, “the parties or their privies” must be the same as they were in the earlier action. *Five Star Capital Corp. v. Ruby*, 124 Nev. 1048, 1054, 194 P.3d 709, 713 (2008). Here, although the partnership was not named as a party to the California action, it is undisputed that each of the purported partners were parties to

that action. Thus, the district court properly found that the partnership's privies were parties to the earlier action for the purpose of applying claim preclusion.³ See *Black's Law Dictionary* 1237 (8th ed. 2004) (defining "privity" as "[t]he connection or relationship between two parties, each having a legally recognized interest in the same subject matter (such as a transaction, proceeding, or piece of property); mutuality of interest"). Finally, given that appellant presents no arguments regarding the remaining elements of claim preclusion, we need not address those elements, see *Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006), and we therefore conclude that the district court did not err by dismissing the underlying action on preclusion grounds.⁴ Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Silver

³While appellant also argues that the district court failed to view the evidence in the light most favorable to her, she does not explain what evidence should have been viewed differently or how the evidence, viewed in a different light, would have overcome the court's conclusions regarding claim preclusion. We therefore decline to consider this argument. See *Edwards*, 122 Nev. at 330 n.38, 130 P.3d at 1288 n.38.

⁴Because we affirm the dismissal of appellant's action on preclusion grounds, we need not address appellant's remaining arguments.

cc: Hon. Patrick Flanagan, District Judge
Renate DeMartini
Porter Simon, PC/Reno
Washoe District Court Clerk