

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MIGUEL A. GONZALEZ,
Appellant,
vs.
LILIANA C. GONZALEZ, N/K/A
LILIANA C. GARCIA,
Respondent.

No. 82011-COA

FILED

JAN 24 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Miguel A. Gonzalez appeals from a district court order enforcing a divorce decree. Eighth Judicial District Court, Family Court Division, Clark County; Denise L. Gentile, Judge.

Miguel and Liliana C. Gonzalez, N/K/A Liliana C. Garcia, filed for divorce in July 2007.¹ The divorce decree details the parties' assets division through an amended joint petition for divorce, which is incorporated into the decree. In the amended joint petition, both parties agreed that Liliana would receive the marital home, that she would refinance the home within three months of the court entering the decree, and that she and Miguel would each receive 50% of the equity in the home. The decree further states that "to the effect of refinancing [the home] under her sole name, [Miguel] shall deliver [an] executed quitclaim deed to [Liliana]." Although the court entered the decree in 2007, Miguel and Liliana lived together in the marital home until Miguel moved out in 2008.

In August 2020, nearly 13 years after the court entered their decree, Liliana filed a motion to enforce the property division of the marital home as set forth in the decree of divorce. Liliana's motion requested the district court order that Miguel sign a quitclaim deed to the home.

¹We do not recount the facts except as necessary to our disposition.

Miguel opposed that motion, arguing that: (1) the district court did not have jurisdiction to hear Liliana's motion because it was time-barred by the six-year statute of limitations under NRS 11.190(1)(a); (2) there is no language in the decree that limits Miguel's interest to the home to only a share of the equity; (3) Liliana failed to satisfy a condition precedent within the decree because she failed to refinance the home within three months of the court entering the decree, thus allowing Miguel to retain an undivided one-half interest in the home; and (4) the parol evidence rule bars Liliana from introducing any evidence that contradicts the decree.

Liliana argued that: (1) under *Kuptz-Blinkinsop v. Blinkinsop*, 136 Nev. 360, 466 P.3d 1271 (2020), her claim is not time-barred under NRS 11.190(1)(a) because it seeks an enforcement of a real property distribution; (2) under the terms of the decree, Miguel was awarded a monetary judgment for 50% of the home's equity, and thus his claim is time-barred under NRS 11.190(1)(a); and (3) refinancing cannot be a condition precedent because she cannot refinance the property solely in her name because of Miguel's refusal to execute a quitclaim deed.

After full briefing on the issues, the district court, pursuant to Administrative Order 20-17, issued a decision based on the briefs. The district court ruled that, under the terms of the decree, Liliana was entitled to complete ownership of the home, and under the Nevada Supreme Court's opinion in *Kuptz-Blinkinsop*, Liliana's right to enforce the decree was not precluded by the six-year statute of limitations under NRS 11.190(1)(a). The district court also held that the decree gave Miguel a monetary judgment for 50% of the equity in the home in 2007. However, because Miguel failed to enforce the decree by asserting a claim for that monetary judgment within the appropriate time-period under NRS 11.190(1)(a), his right to do so was time-barred. Finally, the district court ordered Miguel to sign a quitclaim

deed vesting the property completely in Liliana's name in order to enforce the property distribution set forth in the decree.

Miguel now appeals from the district court's order, arguing that the district court: (1) erred by misinterpreting and misapplying NRS 11.190 and Nevada Supreme Court decisions in *Davidson v. Davidson*, 132 Nev. 709, 382 P.3d 880 (2016) and *Kuptz-Blinkinsop*; (2) abused its discretion by ignoring a condition precedent of refinancing in the divorce decree; and (3) violated his due process rights by not holding an evidentiary hearing to determine the monetary amount of the equity in the home.

Discussion

Liliana's real property interest in the marital home is not subject to the provisions of NRS 11.190; however, that statute does preclude Miguel from asserting his rights to equity in the home under the decree

Miguel argues that his interest in the home is not time-barred because he never signed a quitclaim deed. Thus, there is no "evidence of indebtedness" to begin the accrual period under NRS 11.190. For this proposition, Miguel cites to *Davidson*, and claims the district court's interpretation of that case was incorrect. We disagree.

We review a district court's interpretation of existing precedent *de novo*. See, e.g., *Wyeth v. Rowatt*, 126 Nev. 446, 460, 244 P.3d 765, 775 (2010) ("Appellate issues involving a purely legal question are reviewed *de novo*").

In *Davidson*, a husband and wife divorced in 2006. 132 Nev. at 711-12, 382 P.3d at 882. Under the terms of the divorce, the wife was required to execute a quitclaim deed to the husband in exchange for 50% of the equity in the marital home. *Id.* at 712, 382 P.3d at 882. A short time after their divorce, the parties reconciled and lived together for five years, never remarrying. *Id.* Then in 2014, the wife asked the district court to

enforce the terms of the divorce decree by awarding her 50% of the equity in the marital home. *Id.*

The Nevada Supreme Court held in *Davidson* that the “accrual time for the limitations period in an action on a divorce decree commences ‘from the last transaction or the last item charged or last credit given.’” *Id.* At 716-17, 382 P.3d at 885 (quoting NRS 11.200). In *Davidson*, the last transaction occurred in 2006, when the wife delivered the quitclaim deed to her ex-husband. *Id.* At 717, 382 P.3d at 885. Thus, because she delivered the quitclaim deed more than six-years before moving for the district court to enforce the decree, her claim for the equity was time-barred under NRS 11.190(1)(a). *Id.*

Four years after deciding *Davidson*, the Nevada Supreme Court issued a decision in *Kuptz-Blinkinsop* which clarified *Davidson*.

Kuptz-Blinkinsop involved a husband and wife who owned a home together while married. *Kuptz-Blinkinsop*, 136 Nev. at 361, 466 P.3d at 1273. In 2009, the parties filed for divorce. The couple’s division of assets included the husband being awarded the marital home as his sole and separate property, with the wife being ordered to sign a quitclaim deed removing her name from the home within ten-days of entry of the decree. *Id.* In 2018, the wife asked the district court to partition the marital home claiming she still owned 50% of the home because she never signed a quitclaim deed relinquishing her interest. *Id.* The wife also argued that her ex-husband was required to renew the decree of divorce under NRS 17.214 and *Davidson*, and because he did not, the limitations period to bring a claim to enforce the decree expired under NRS 11.190. *Id.*

The *Kuptz-Blinkinsop* court held that “NRS 11.190 unambiguously excludes actions for recovery of real property.” *Id.* at 363, 466 P.3d at 1274. Thus, the court clarified its holding in *Davidson*, stating

that NRS 11.190(1)(a) is not implicated when a party seeks to enforce a distribution for real property under the provisions of a divorce decree. *Id.* at 363, 466 P.3d at 1274-75.

In the present case, the district court correctly relied on *Kuptz-Blinkinsop* in its analysis. The divorce decree states, unambiguously, that Liliana receives a real property interest; namely, complete ownership of the home. Thus, any attempt to enforce the decree with respect to the home is not subject to the limitations period under NRS 11.190(1)(a). See *Kuptz-Blinkinsop*, 136 Nev. at 362, 466 P.3d at 1274 (citing *Davidson*, 132 Nev. at 711-12, 382 P.3d at 881-82).

In contrast, the divorce decree gives Miguel no real property rights. Miguel is only awarded “50% of the remaining equity” in the home, which would be a monetary award. This is exactly the type of judgment that falls within the limitations periods of NRS 11.190(1)(a) because it is “[l]ike any other claim ‘upon a judgment or decree of any court of the United States, or of [any court of] any state of territory within the United States.’” *Id.*

Therefore, the district court did not err by allowing Liliana to assert her real property rights, while simultaneously precluding Miguel from asserting a right to a monetary judgment under the terms of the decree. *Under the plain language of the decree, there is no condition precedent that divests Liliana of complete ownership of the home*

Miguel argues the district court erred because, using the rules of contract interpretation, Liliana only receives complete ownership of the home if she refinanced within three months of the court entering the decree. Thus, because she did not refinance, Miguel argues that he retains an undivided one-half interest in the equity of the marital home. We disagree.

First, there is no authority to support Miguel’s argument that the rules of contract interpretation govern the decree. In fact, “[g]enerally,

when the district court approves and adopts the parties' agreement into the decree of divorce, the agreement merges into the decree unless both the decree and the agreement contain a clear and direct expression that the agreement will survive the decree." *Mizrachi v. Mizrachi*, 132 Nev 666, 675 n.9, 385 P.3d 982, 988 n.9 (Ct. App. 2016) (citing *Day v. Day*, 80 Nev. 386, 389-90, 395 P.2d 321, 322-23 (1964)). Furthermore, when an agreement merges into a decree of divorce, it loses its character as an independent agreement and the parties' rights "rest solely upon the decree." *Day*, 80 Nev. at 389, 395 P.2d at 322; *see also Mizrachi*, 132 Nev. at 675, 385 P.3d at 988. We review a district court's interpretation of a divorce decree de novo. *See Ormachea v. Ormachea*, 67 Nev. 273, 291-92, 217 P.2d 355, 364-65 (1950) (providing that a district court's construction and interpretation of the legal operation and effect of one of its divorce decrees present a question of law that is reviewed de novo).

In this case, the plain language of the decree does not support Miguel's argument that the decree places a condition precedent on Liliana. A condition precedent is a promise that one party makes to do something before the other party is bound to perform its obligations. *See Cain v. Price*, 134 Nev. 193, 195, 415 P.3d 25, 29 (2018) (citing *McCorquodale v. Holiday, Inc.*, 90 Nev. 67, 69, 518 P.2d 1097, 1098 (1974)); 17A Am. Jur. 2d Contracts § 447 (1997). Here, the property distribution of the marital home in the decree states Liliana *shall* receive the home. There are no conditions that Liliana must satisfy before receiving the home. The decree plainly awards Liliana the real property without condition.

Next, the decree states that Liliana "shall refinance the property under her sole name within three months from the date of decree of divorce." This is further evidence that the parties agreed the home would go to Liliana. Further, as a practical matter, the award of the home to Liliana as

her sole property had to precede any requirement that she refinance the home in her name.

Indeed, the decree states, “to the effect of refinancing under her sole name, husband shall deliver executed quitclaim deed to wife.” Miguel does not dispute this provision. Nevertheless, the decree does not state that Liliana must refinance the home before receiving the quitclaim deed from Miguel. A plain reading of the entire decree does not support this interpretation. The property division of the marital home as set forth in the decree begins by unconditionally awarding Liliana the home.

Therefore, Miguel’s argument that Liliana’s failure to comply with a condition precedent is not supported by a plain reading of the decree. *The district court did not abuse its discretion by issuing its decision on the merits without a hearing*

Finally, Miguel argues that the district court did not have adequate information on the price of the home to establish the monetary value he should receive under the decree, and therefore, the district court should have conducted an evidentiary hearing to establish the monetary value of his 50% equity share since 2007. We disagree.

EDCR 2.23(c) states that a judge may consider a motion on its merits “at anytime with or without oral argument, and grant or deny it.” Similarly, Administrative Order 20-17, which took effect because of the COVID-19 pandemic, states that non-evidentiary hearing motions may be “decided on the papers” if the district court so decides. See Administrative Order 20-17 at 12:13-18, signed by Chief District Court Judge Linda Marie Bell on June 1, 2020.

Here, because NRS 11.190 precludes Miguel from asserting a right to 50% of the equity in the home, there was no need for the district court to hold an evidentiary hearing on the value of the equity because Miguel: (1) does not have a real property interest under the plain language

of the decree and (2) has forfeited his monetary judgment by not asserting his rights within the statutory limitations period prescribed in NRS 11.190(1)(a). Therefore, the district court did not abuse its discretion by issuing its decision without a hearing because it acted within its authority by deciding the motion on the briefs.

Conclusion

In summary, the district court did not err under *Davidson*, *Kuptz-Binkinsop*, and NRS 11.190 by concluding that Liliana has a real property interest that is not time-barred. Additionally, the plain language of the decree does not support Miguel's assertion that Liliana was required to refinance the home prior to receiving complete ownership. Finally, the district court did not abuse its discretion by not holding an evidentiary hearing to determine the monetary amount owed to Miguel for his 50% of the equity because his right to that claim is time-barred under NRS 11.190(1)(a).

Therefore, we ORDER the judgment of the district court AFFIRMED.



C.J.

Gibbons



J.

Tao



J.

Bulla

cc: Hon. Denise L. Gentile, District Judge, Family Court Division
The Grigsby Law Group
Mills & Anderson Law Group
Eighth District Court Clerk