IN THE SUPREME COURT OF THE STATE OF NEVADA

TRUDI LEE LYTLE; AND JOHN ALLEN LYTLE, AS TRUSTEES OF THE LYTLE TRUST, Appellants, vs. SEPTEMBER TRUST, DATED MARCH 23, 1972; GERRY R. ZOBRIST AND JOLIN G. ZOBRIST, AS TRUSTEES OF THE GERRY R. ZOBRIST AND JOLIN G. ZOBRIST FAMILY TRUST; RAYNALDO G. SANDOVAL AND JULIE MARIE SANDOVAL GEGEN, AS TRUSTEES OF THE RAYNALDO G. AND EVELYN A. SANDOVAL JOINT LIVING AND DEVOLUTION TRUST DATED MAY 27, 1992; DENNIS A. GEGEN AND JULIE S. GEGEN, HUSBAND AND WIFE, AS JOINT TENANTS, Respondents.	No. 81689
TRUDI LEE LYTLE; AND JOHN ALLEN LYTLE, AS TRUSTEES OF THE LYTLE TRUST, Petitioners, vs. THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK; AND THE HONORABLE TIMOTHY C. WILLIAMS, DISTRICT JUDGE, Respondents, and SEPTEMBER TRUST, DATED MARCH 23, 1972; GERRY R. ZOBRIST AND	No. 84538

FILED

DEC 29 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

22-40891

JOLIN G. ZOBRIST, AS TRUSTEES OF THE GERRY R. ZOBRIST AND JOLIN G. ZOBRIST FAMILY TRUST; RAYNALDO G. SANDOVAL AND JULIE MARIE SANDOVAL GEGEN, AS TRUSTEES OF THE RAYNALDO G. AND EVELYN A. SANDOVAL JOINT LIVING AND DEVOLUTION TRUST DATED MAY 27, 1992; DENNIS A. GEGEN AND JULIE S. GEGEN, HUSBAND AND WIFE, AS JOINT TENANTS; ROBERT Z. DISMAN; AND YVONNE A. DISMAN,
Real Parties in Interest.

ORDER AFFIRMING IN DOCKET NO. 81689 AND DENYING PETITION FOR A WRIT OF MANDAMUS IN DOCKET NO. 84538

Docket No. 84538 is an original petition for a writ of mandamus or, alternatively, prohibition challenging a contempt order in a real property action. It is consolidated with Docket No. 81689, an appeal challenging an award of attorney fees and costs relating to the contempt order. Petitioners/appellants, Trudi and John Lytle as trustees of the Lytle Trust ("the Lytles"), and real parties in interest/respondents ("Property Owners") own homes that are part of non-party Rosemere Estates Property Owners Association ("Association"). After extensive litigation against the Association over assessments recorded against the Lytles' property under an amended version of the CC&Rs, the Amended CC&Rs were declared *void ab initio* and the Lytles were awarded judgments totaling more than $1.4 million.[1] Importantly, the original CC&Rs do not allow for the Association to impose assessments on property owners. The Lytles' attempts to collect

[1]The Property Owners were not parties to the cases awarding judgments against the Association.

led them to record abstracts of judgments and *lis pendens* against the Property Owners' homes. The Property Owners brought separate cases, which were later consolidated, seeking to strike the recorded judgments and enjoin future collection attempts against them (the "resident actions"). In May 2018, the district court in the resident actions permanently enjoined the Lytles from "recording or enforcing" judgments obtained against the Association against the Property Owners' homes or "taking any action in the future directly against" the Property Owners or their homes in relation to the judgments ("May 2018 Order").[2]

The Lytles then commenced a new action (the "receivership action") seeking the appointment of a receiver over the Association to facilitate payment of the prior judgments. The receivership action was randomly assigned to a different district court department than the one handling the resident actions. In the receivership action, the Lytles specifically requested that the receiver have the power to "[i]ssue a special assessment upon all owners within the Association, except the Lytle Trust, to satisfy (or, at least, partially satisfy) the Lytle Trust's judgments against the Association." The Lytles informed the district court in the receivership action that the Amended CC&Rs had been declared *void ab initio* in earlier litigation but nonetheless argued the Association had the authority to make assessments against individual homeowners under the Amended CC&Rs. The Lytles also did not inform the district court in the receivership action of the injunctions issued in the resident actions. Ultimately, the district

[2]This court affirmed that order on appeal. *Lytle v. September Trust, Dated March 23, 1972*, Nos. 76198, 77007, 2020 WL 1033050 (Nev. Mar. 2, 2020) (Order of Affirmance).

court in the receivership action appointed the receiver as requested and empowered the receiver to impose assessments on the Property Owners.

After learning of the receiver's appointment, the Property Owners filed a motion for an order to show cause in the resident actions why the Lytles should not be held in contempt for violating the May 2018 Order entered in those cases. The district court in the resident actions granted the motion, holding the Lytles in contempt and ordering the Lytles to pay attorney fees and costs to the Property Owners.

Because the district court did not manifestly abuse its discretion by holding the Lytles in contempt, we deny the requested writ relief.[3] *See Pengilly v. Rancho Santa Fe Homeowners Ass'n*, 116 Nev. 646, 650, 5 P.3d 569, 571 (2000) (providing that contempt orders may be challenged through a writ petition, but mandamus is typically only available to control a "manifest abuse of discretion" and "[w]hether a person is guilty of contempt is generally within the particular knowledge of the district court, and the district court's order should not lightly be overturned"). We conclude the May 2018 Order clearly and unambiguously prohibited the Lytles' future reliance on the Association's powers under the Amended CC&Rs.[4] *See Mack-Manley v. Manley*, 122 Nev. 849, 858, 138

---

[3]While the Lytles alternatively seek a writ of prohibition, we conclude mandamus relief is proper because they do not assert that the district court exceeded its jurisdiction by entering the contempt order. *See* NRS 34.320.

[4]While we conclude that the Lytles were prohibited from enforcing the powers in the Amended CC&Rs, nothing in the plain text of the May 2018 Order prohibited them from seeking the appointment of a receiver over the Association. *See U.S. Bank Nat'l Ass'n v. Palmilla Dev. Co.*, 131 Nev. 72, 77, 343 P.3d 603, 606 (2015) (explaining that an appointed receiver is merely an officer of the court, with "no powers other than those conferred

P.3d 525, 532 (2006) ("An order on which a judgment of contempt is based must be clear and unambiguous."). The May 2018 order enjoined the Lytles "from taking any action in the future directly against" the Property Owners or their homes, and included findings of fact noting that the Amended CC&Rs had no force and effect. Further, at various stages of the Lytles' litigation, the district courts and this court issued orders that the Amended CC&Rs were *void ab initio* and the Association had no power through the original CC&Rs or NRS Chapter 116 to make assessments against the unit owners. *See Lytle v. September Trust, Dated March 23, 1972*, Nos. 76198, 77007, 2020 WL 1033050, at *2 (Nev. Mar. 2, 2020). That constitutes law of the case here. *See Dictor v. Creative Mgmt. Servs., LLC*, 126 Nev. 41, 44, 223 P.3d 332, 334 (2010) (stating that under the law-of-the-case doctrine when an appellate court decides a principle or rule of law either expressly or by necessary implication, "that decision governs the same issues in subsequent proceedings in that case"); *LoBue v. State ex rel. Dep't of Highways*, 92 Nev. 529, 532, 554 P.2d 258, 260 (1976) ("The law of the first appeal is the law of the case on all subsequent appeals in which the facts are substantially the same." (internal quotation marks omitted)).

We further conclude that the Lytles disobeyed the order of the district court in the resident actions when applying for the receiver in the receivership action by arguing that under the Amended CC&Rs, "the Association has the power and authority to assess each 'Lot' or unit for the total amount of any judgments against the Association in proportion to ownership within the Association." A district court may hold a party in contempt for their "[d]isobedience or resistance to any

---

upon him by the order of his appointment" (internal quotation marks omitted).

lawful . . . order . . . issued by the court." NRS 22.010(3). In holding the Lytles in contempt, the district court relied, in part, on their having argued that the Association, through the receiver, could make special assessments on the Property Owners for the purpose of paying the judgments when the Association had no power to do so under the original CC&Rs. Discerning no manifest abuse of discretion in the district court's ruling, we deny the Lytles' petition for a writ of mandamus.

Additionally, the Lytles appeal of the attorney fee award was premised solely only on their argument that the fee award must be reversed if their petition was granted. Because we deny the petition, we necessarily affirm the attorney fees awarded as a result of the contempt order. *See, e.g., Bower v. Harrah's Laughlin, Inc.*, 125 Nev. 470, 494-95, 215 P.3d 709, 726 (2009) ("[I]f we reverse the underlying decision of the district court that made the recipient of the costs the prevailing party, we will also reverse the costs award."). Accordingly, we

DENY the petition in Docket No. 84538 and AFFIRM the district court order challenged in Docket No. 81689.

_____, J.
Hardesty

_____, J.
Stiglich

_____, J.
Herndon

cc: Hon. Timothy C. Williams, District Judge
Lewis Roca Rothgerber Christie LLP/Las Vegas
Christensen James & Martin
Fidelity National Law Group/Las Vegas
Eighth District Court Clerk