

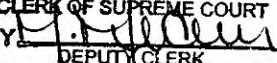
IN THE SUPREME COURT OF THE STATE OF NEVADA

BARTLOMIEJ POCHRON, AN  
INDIVIDUAL,  
Appellant,  
vs.  
SCOTT THOMPSON, AN INDIVIDUAL,  
Respondent.

No. 85593

**FILED**

**FEB 13 2024**

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

This is an appeal from post-judgment order granting a motion to set aside a notice of a sheriff's sale because of a homestead exemption. Eighth Judicial District Court, Clark County; Jessica K. Peterson, Judge.

Respondent Scott Thompson owes Appellant Bartlomiej Pochron \$2,127,037.13, plus interest, from a 2009 judgment stemming from a personal injury case. Pochron's injuries resulted from an incident in which an employee of Thompson's business, D&S Motorcycles, shot Pochron with Thompson's gun.

Thompson purchased the disputed property, a single-family home, in March 2015, and declared the property his homestead in November 2016. Thompson rented the master bedroom to friends from 2016 to 2017, and stayed in the second bedroom when he was not travelling for work. After the tenants left in August 2017, Thompson lived on the property with his wife.

In June 2022, Pochron discovered the property and sought to foreclose on it in partial satisfaction of the judgment. Thompson opposed the notice of the sheriff's sale, arguing that the property was his homestead. The district court granted Thompson's motion to set aside the notice of the sheriff's sale. Pochron now appeals.

Substantial evidence supports the district court's finding that the homestead exemption applies because Thompson resided at the property since its purchase. *Sowers v. Forest Hills Subdivision*, 129 Nev. 99, 105, 294 P.3d 427, 432 (2013) (explaining that this court gives deference to the district court's factual findings and will not set them aside unless they are clearly erroneous and not supported by substantial evidence); *In re Nilsson*, 129 Nev. 946, 951, 315 P.3d 966, 969 (2013) (requiring a person to reside on the property at the time the person declares it their homestead). Thompson attested that he lived on the property during the period he rented the master bedroom and lived there with his wife afterwards, which the district court found credible. *See Ellis v. Carucci*, 123 Nev. 145, 152, 161 P.3d 239, 244 (2007) (declining to disturb the district court's credibility determinations). Additionally, Thompson's mortgage listed only the property address. Though Pochron presented some evidence casting doubt on Thompson's residency, we defer to the district court's factual determination of Thompson's residency.

On de novo review, we also agree with the district court's legal conclusion that the presence of tenants does not preclude a homestead on Thompson's property under the facts of this case. *See Dewey v. Redevelopment Agency of the City of Reno*, 119 Nev. 87, 93, 64 P.3d 1070, 1075 (2003) (reviewing legal issues de novo). This court previously held that homesteads are permitted even when the property is not exclusively a domestic residence, so long as the property comports with the value limits in the homestead statute. *Jackman v. Nance*, 109 Nev. 716, 721, 857 P.2d 7, 10 (1993) (holding that running a tool rental business out of a home does not preclude a homestead exemption on the property because the property did not exceed the statutory value limit); NRS 115.050 (setting the

maximum statutory value of a homestead at \$605,000). Thompson lived on the property, and his nonresidential use of renting the master bedroom to his friends does not limit his ability to claim a homestead if the property complies with the value limits required by statute. In this case, there is no doubt Thompson's home is worth less than \$605,000. Therefore, Thompson is not prohibited by law from claiming a homestead on his property due to the presence of tenants.

Further, any exception for fraud does not apply here. *See Maki v. Chong*, 119 Nev. 390, 394, 75 P.3d 376, 379 (2003) (recognizing an exception to the homestead exemption when property is acquired with funds obtained through fraud so fraud victims may recoup what was taken from them). While the record suggests Thompson may have gone to some lengths to avoid paying the judgment, no evidence shows that Thompson defrauded Pochron or used any fraudulently obtained funds to purchase the real property at issue. *Cf. Reynolds v. Tufenkjian*, 136 Nev. 145, 150, 461 P.3d 147, 152 (2020) (recognizing distinctions between fraud and intentional misrepresentation claims and other tort claims). Thompson purchased the property in question with a loan secured by a deed of trust and made a modest down payment with his own money.

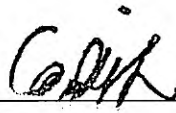
This exception also does not apply to fraudulent transfers as proposed by Pochron. *See* NRS 112.180 (defining fraudulent transfer). Pochron does not establish any fraudulent transfer because he does not identify a transfer of D&S assets to Thompson. *See* NRS 112.180(1)(b) (requiring some exchange, implying a transferor and transferee, for the statute to apply). Further, Pochron fails to show any fraudulently transferred funds from D&S were involved in the real property purchase.

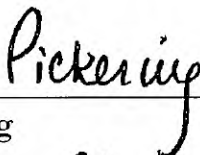
Therefore, the exception to the homestead exemption created by *Maki* for victims of fraud does not apply to Pochron on these facts.


To the extent Pochron requests this court to create a new exception to the homestead exemption for willful and malicious torts, like the injury Pochron suffered when Thompson's former employee shot Pochron with Thompson's gun, we decline to do so. The homestead exemption is the product of statutory and constitutional law, not common law, meaning the homestead exemption must be extended or limited by statute or constitutional provision. *Jackman*, 109 Nev. at 718, 857 P.2d at 8 (recognizing that Constitutional and statutory law created the homestead exemption). This court has only limited the homestead exemption in two narrow circumstances. *Maki*, 119 Nev. at 394, 75 P.3d at 379 (permitting an exception for fraud under the principal of equitable liens); *Breedlove v. Breedlove*, 100 Nev. 606, 608, 691 P.2d 426, 427 (1984) (permitting an exception for child support obligations under the absurdity doctrine). This court is not the appropriate body to create the exception sought by Pochron, as the exceptions provided in statute do not include willful and malicious torts. See NRS 115.010. Additionally, unlike the exceptions recognized by this court, no independent legal rationale supports Pochron's proposed

exception. We, therefore, decline to create the proposed exception to the homestead exemption for willful and malicious torts. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, C.J.  
Cadish

  
\_\_\_\_\_, J.  
Pickering

  
\_\_\_\_\_, J.  
Bell

cc: Hon. Jessica K. Peterson, District Judge  
Persi J. Mishel, Settlement Judge  
Johnson & Gubler, P.C.  
Law Offices of Brian D. Shapiro, LLC  
Eighth District Court Clerk