

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT TRETIAK,  
Appellant,  
vs.  
STEVEN NED GREENHALGH AND  
MILDRED MAE GREENHALGH,  
Respondents.

No. 41894

**FILED**

MAY 04 2007

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court summary judgment in a real estate case. Eighth Judicial District Court, Clark County; Ronald D. Parraguirre, Judge.

This court reviews orders granting summary judgment de novo.<sup>1</sup> Summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to a judgment as a matter of law.<sup>2</sup> The pleadings and other proof must be construed in a light most favorable to the nonmoving party.<sup>3</sup> But once the movant has properly supported the summary judgment motion, the nonmoving party may not rest upon general allegations and conclusions and must instead set forth, by affidavit or otherwise, specific facts demonstrating the existence of a

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<sup>1</sup>Wood v. Safeway, Inc., 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005).

<sup>2</sup>Id.

<sup>3</sup>Id.

genuine issue of material fact for trial to avoid having summary judgment entered against him.<sup>4</sup>

Having reviewed the record and the parties' documents, including appellant Robert Tretiak's civil proper person appeal statement, we conclude that substantial evidence supports the district court's summary judgment. As a matter of law, the complaint, with respect to its claims related to the well, is barred by the statute of limitations.<sup>5</sup> Additionally, Tretiak has failed to demonstrate that he can present evidence at trial to support his fraudulent misrepresentation<sup>6</sup> and/or

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<sup>4</sup>Id. at 731, 121 P.3d at 1030-31; NRCP 56(e). We note that our decision in Epperson v. Roloff, 102 Nev. 206, 719 P.2d 799 (1986), is inapplicable, because other essential elements of Tretiak's claims for relief are absent in this case.

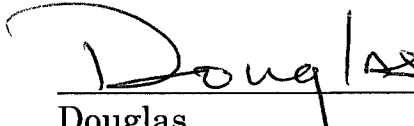
<sup>5</sup>NRS 11.190(3)(d).

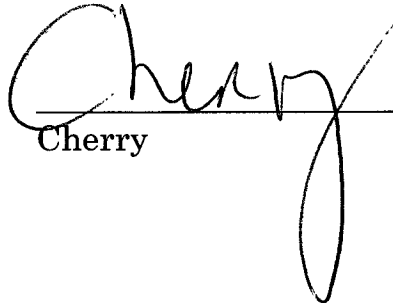
<sup>6</sup>See Bartmettler v. Reno Air, Inc., 114 Nev. 441, 446-47, 956 P.2d 1382, 1386 (1998); Bulbman, Inc. v. Nevada Bell, 108 Nev. 105, 110-11, 825 P.2d 588, 592 (1992); Borba v. Thomas, 138 Cal. Rptr. 565 (Ct. App. 1977); Bledsoe v. Watson, 106 Cal. Rptr. 197 (Ct. App. 1973).

constructive fraud<sup>7</sup> claims. Accordingly, we affirm the district court's summary judgment.<sup>8</sup>

It is so ORDERED.

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Cherry

cc: Eighth Judicial District Court Dept. 3, District Judge  
Robert Tretiak  
Bell and Young, Ltd.  
Eighth District Court Clerk

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<sup>7</sup>See Dow Chemical Co. v. Mahlum, 114 Nev. 1468, 1486-87, 970 P.2d 98, 110 (1998) (concluding that no liability for fraudulent concealment existed in the absence of a duty to disclose), overruled in part on other grounds by GES, Inc. v. Corbitt, 117 Nev. 265, 21 P.3d 11 (2001); Long v. Towne, 98 Nev. 11, 639 P.2d 528 (1982) (recognizing that fiduciary obligations generally do not exist between a buyer and a seller of real property); Yerington Ford, Inc. v. General Motors Acceptance, 359 F. Supp. 2d 1075 (D. Nev. 2004) (noting that Nevada has not recognized the existence of a fiduciary relationship between a guarantor and a creditor).

<sup>8</sup>As summary judgment was proper, the trial court did not abuse its discretion in denying Tretiak's demand for a jury trial under NRCP 39(b).