SUPREME COURT OF NEVADA

DTJ Design, Inc. v. First Republic Bank

DTJ Design v. First Republic Bank, 2014 NV 5 (Nev. 2014) · No. 57165 · Decided February 13, 2014

SUMMARY

The Nevada Supreme Court held that a foreign architectural firm must itself satisfy the registration requirements of NRS 623.349(2) to bring or maintain an action for compensation under NRS 623.357. Because DTJ Design was not properly registered, the court affirmed summary judgment barring its lien foreclosure and unjust enrichment claims.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Michael L. Parraguirre, Chief Justice; Michael Douglas, Justice; Mark Gibbons, Justice; Michael A. Cherry, Justice; Kristina Pickering, Justice; James W. Hardesty, Justice; Nancy M. Saitta, Justice
JURISDICTION	Nevada
DECIDED	February 13, 2014
DOCKET	57165
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a district court order granting summary judgment in a lien foreclosure action, certified as final under NRCP 54(b).
STANDARD OF REVIEW	Summary judgment is reviewed de novo. Summary judgment is proper when, viewing the record in the light most favorable to the nonmoving party, there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	published
PARTIES	DTJ Design, Inc. v. First Republic Bank, a Nevada corporation

TOPICS

construction law · statutory interpretation · appellate procedure · commercial litigation · standard of review

PRACTICE AREAS

construction law · commercial litigation · statutory interpretation · appellate procedure

QUESTIONS PRESENTED

1. Whether a foreign architectural corporation must itself comply with NRS 623.349(2)'s registration requirements to bring or maintain an action in Nevada for compensation for architectural services.
2. Whether an individual architect's Nevada registration permits an unregistered architectural corporation to foreclose on a mechanic's lien or otherwise pursue compensation in the corporation's name.
3. Whether DTJ's failure to prove firm registration barred its unjust enrichment claim under NRS 623.357.
4. Whether summary judgment was properly granted in First Republic Bank's favor.

HOLDINGS

1. A foreign architectural firm must comply with NRS 623.349(2), including demonstrating compliance with the statutory ownership requirements, qualifying to do business in Nevada, and paying the required registration fee, before it may practice architecture or maintain an action for compensation in Nevada.
2. An individual architect's registration does not permit a separate, unregistered architectural corporation to bring or maintain an action for compensation in the corporation's name.
3. NRS 623.357 barred DTJ from bringing or maintaining its action for compensation, including its mechanic's-lien foreclosure claim, because DTJ failed to prove that it was registered under Chapter 623.
4. DTJ's unjust enrichment claim was also barred by NRS 623.357 because DTJ failed to prove its registration status.

KEY QUOTATIONS

> *"We conclude that regardless of whether a foreign firm employs a registered architect, NRS 623.349(2) and NRS 623.357 mandate that the firm be registered in Nevada in order to maintain an action on the firm's behalf."* (1)

> *"Because NRS 623.357 expressly provides that business organizations must allege and prove that they have registered with the Board in order to maintain any action for collecting compensation for their services, we conclude that the burden was on DTJ to prove its registration status and that First Republic was not required to plead DTJ's failure to register as an affirmative defense."* (6-7)

FACTUAL BACKGROUND

DTJ Design, Inc. was a Colorado architectural corporation that performed architectural services for a Nevada development project. Although one of its principals, Thomas W. Thorpe, was individually registered as an architect in Nevada, DTJ itself had not been registered under Nevada's architectural-firm registration provisions. After the developer defaulted on a loan secured by the property, DTJ recorded a mechanic's lien and sued First Republic Bank following foreclosure for lien priority and unjust enrichment.

PROCEDURAL HISTORY

DTJ recorded a mechanic's lien for unpaid architectural services and sued First Republic Bank for lien priority and unjust enrichment after the bank foreclosed on the property. The district court initially found DTJ to be a valid lien claimant with priority, but before the valuation phase it granted First Republic summary judgment, concluding that DTJ was barred from maintaining the action because it had not complied with Nevada architectural-firm registration requirements and that its unjust enrichment claim lacked a legal basis. DTJ appealed, and the Nevada Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Day v. Zubel, 112 Nev. 972, 977, 922 P.2d 536, 539 (1996)
- Pegasus v. Reno Newspapers, Inc., 118 Nev. 706, 713, 57 P.3d 82, 87 (2002)
- Old Aztec Mine, Inc. v. Brown, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981)
- Loomis v. Lange Financial Corp., 109 Nev. 1121, 1128, 865 P.2d 1161, 1165 (1993)
- Nev. Equities v. Willard Pease Drilling, 84 Nev. 300, 303, 440 P.2d 122, 123 (1968)
- Interstate Commercial Bldg. Servs., Inc. v. Bank of Am. Nat'l Trust & Say. Ass'n, 23 F. Supp. 2d 1166, 1175 (D. Nev. 1998)
- Hotel Riviera Inc. v. Torres, 97 Nev. 399, 403, 632 P.2d 1155, 1158 (1981)

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