IN THE COURT OF APPEALS OF THE STATE OF NEVADA

WILLIAM ERIC MYRICKS, II A/K/A ELIJAH ROCK,
Appellant/Cross-Respondent,
vs.
MELISSA SHIELDS,
Respondent/Cross-Appellant.

No. 89588-COA

FILED
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ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
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ORDER AFFIRMING IN PART, REVERSING IN PART AND REMANDING

William Eric Myricks, II, appeals and Melissa Shields cross-appeals from a district court judgment in a contract and partition matter. Eighth Judicial District Court, Clark County; Tina Talim, Judge.

Myricks and Shields previously had a brief relationship, having met in person three times. During that relationship, the parties entered into a Memorandum of Understanding (MOU or agreement) in April 2019, and, under that agreement, Shields loaned $13,000 to Myricks at zero percent interest with a maturity date of October 2020. The purpose of the loan was to finance the production and distribution of Myricks' studio album entitled Matters of the Heart.[1] The parties then agreed to amend this MOU in July 2019 to provide an additional $7,000 loan from Shields to Myricks, also at zero percent interest, with a new maturity date of July 2021.

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[1]ELIJAH ROCK, Matters of the Heart (CD, Elijah Rock Ent., Aug. 13, 2021).

Myricks purchased residential property in Las Vegas in May 2021. Although title and the mortgage were taken in both parties' names as joint tenants, Shields' involvement was essentially limited to allowing the use of her credit to obtain a mortgage to facilitate the purchase.[2] When the loan came due in July 2021, a year into the COVID-19 pandemic, the parties executed a second amendment to the agreement, extending the maturity dates of both loans to February 2022, and providing that any unpaid balance thereafter would accrue interest at five percent—compounded monthly. Myricks failed to repay the loan amount due in February 2022, resulting in Shields' underlying action for breach of contract. Shields also brought a claim for partition for sale of the subject real property.

Following a bench trial, the district court found Myricks breached the agreements and owed Shields $20,000 of the principal loan balance. The court summarily rejected Myricks' argument that the COVID-19 pandemic excused his performance, enforcing the parties' loan agreements and awarding total damages with accrued interest against Myricks in the amount of $74,669.13. The court also denied Shields' request for partition and ordered her to quitclaim her interest in the residential property to Myricks, finding that she did not contribute to the purchase of the home or in servicing of the mortgage. Myricks appeals the district court's monetary judgment for breach of contract entered against him, and Shields cross-appeals the quitclaim order and denial of partition.

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[2]While Shields provided $7,000 to assist with the downpayment and escrow on the purchase, it is undisputed that Myricks subsequently reimbursed her for this amount and it is not at issue in this case.

The district court did not err by enforcing the parties' loan agreements and rejecting Myricks' impossibility defense

Myricks agrees that he did not pay Shields the amounts stated in the loan agreements but argues his performance was excused due to impossibility. The record is largely undisputed and supports the district court's conclusion that Shields proved a straightforward breach of written contract evidenced by the loan agreements. Further, the record demonstrates that Myricks failed to establish the narrow defense of impossibility. The original, and subsequently amended, loan agreements created a straightforward money-loan in that Shields advanced money, Myricks was required to repay by set dates, and contractual interest applied if repayment was late. There is no factual dispute over Shields' testimony or assertion that she advanced the $20,000 as loans (not gifts or investments) with a clear expectation of repayment under the written terms, and that Myricks never repaid any portion of principal.

Myricks' position on appeal is that the district court "did not consider" or misapplied the impossibility defense he advanced in his pre-trial memorandum and at trial. Although the court's order contains only a one-sentence finding on this issue, it nevertheless demonstrates that the court did indeed "consider" the issue.[3] Even so, Myricks' impossibility defense rests on the undisputed fact that the COVID-19 pandemic and related shutdown orders closed the Las Vegas Strip and resulted in the loss of his performance contract, significantly reducing his income as a live entertainer. He claims this extraordinary, unforeseeable event rendered

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[3]Finding that "Shields has performed to the parties' agreement(s), which Myricks acknowledged; however, Myricks has breached the agreement(s) and the Court is not persuaded by Myricks' argument asking he be excused from contractual obligations due to the Covid-19 pandemic."

his repayment obligation under the loan agreement as "impractical or impossible," invoking settled Nevada law, as well as analogizing to pandemic-era cases which recognized impossibility or frustration where government orders directly prevented a lessee from using premises for their only contemplated purpose. Shields answers that Nevada recognizes impossibility only where performance is objectively impossible, not merely more difficult or financially burdensome, and that monetary payment obligations are rarely excused, especially in the absence of a force-majeure clause. We agree with Shields.

"[F]indings of fact and conclusions of law, supported by substantial evidence, will not be set aside unless clearly erroneous." *See Edwards Indus., Inc. v. DTE/BTE, Inc.*, 112 Nev. 1025, 1031, 923 P.2d 569, 573 (1996); *see also Yount v. Criswell Radovan, LLC*, 136 Nev. 409, 414, 469 P.3d 167, 171 (2020) ("Following a bench trial, we will not overturn the district court's findings of fact unless they are clearly erroneous or not supported by substantial evidence." (citation modified)). "Substantial evidence is that which a reasonable mind might accept as adequate to support a conclusion." *Dynamic Transit Co. v. Trans Pac. Ventures Inc.*, 128 Nev. 755, 761, 291 P.3d 114, 118 (2012) (citation modified).

In matters of contract, Nevada courts consistently distinguish between interpreting contractual terms and evaluating performance under those terms. *Whitemaine v. Aniskovich*, 124 Nev. 302, 308, 183 P.3d 137, 141 (2008) ("While a district court's interpretation of a contractual term is a question of law, which this court reviews de novo, whether a contract exists and the parties' intentions regarding a contractual provision are questions of fact, which this court reviews for substantial evidence."). Thus, a district court's "determination that the contract was or was not breached will be affirmed unless clearly erroneous, but the district court's

interpretation of the meaning of contractual terms is subject to independent appellate review." *Sheehan & Sheehan v. Nelson Malley & Co.*, 121 Nev. 481, 486, 117 P.3d 219, 223 (2005).

Here, the judgment against Myricks must be affirmed. The district court's finding that Myricks defaulted on the final iteration of the amended loan agreement is largely undisputed and supported by substantial evidence. Further, while Myricks' income was reduced because of the COVID-19 pandemic, he does not contend that his income was entirely extinguished. Our inquiry thus narrows to whether the district court's rejection of Myricks' impossibility defense was clearly erroneous.

Nevada courts evaluate the impossibility defense through common law principles rather than a comprehensive statutory framework. The Nevada Supreme Court established the governing standard in *Nebaco, Inc. v. Riverview Realty Co.*, holding "the defense of impossibility is available to a [promisor] where his performance is made impossible or highly impractical by the occurrence of unforeseen contingencies," but if the contingency "is one which the [promisor] should have foreseen, and for which he should have provided, this defense is unavailable to him." 87 Nev. 55, 57, 482 P.2d 305, 307 (1971); *see also United States v. Winstar Corp.*, 518 U.S. 839, 904 (1996) (emphasizing the premise of the foreseeability requirement "is that the parties will have bargained with respect to any risks that are both within their contemplation and central to the substance of the contract"). *Nebaco* therefore implies that objective impossibility, in which performance cannot be accomplished by anyone, differs from subjective inability, in which a promisor fails to perform because of an individualized circumstance such as financial or economic hardship. 87 Nev. at 57, 482 P.2d at 307.

Consistent with *Nebaco*, the Nevada Supreme Court has since clarified that subjective inability to pay a party is not an unforeseen contingency sufficient to invoke the impossibility doctrine. *See Cashman Equip. Co. v. W. Edna Assocs.*, 132 Nev. 689, 701, 380 P.3d 844, 852 (2016) (concluding that the district court incorrectly applied the impossibility defense because the promisor's inability to pay was not an unforeseen contingency rendering performance impossible). This delta between a promisor's objective and subjective ability to perform was explored further by the *Cashman* court, noting that the "nature of [the promisor's] performance cannot be considered impossible or impracticable merely because it would be unappealing." *Id.* at 702, 380 P.3d at 853. Critically, only with substantial evidence that supports the performance was impossible or impracticable will the district court's findings be set aside on appellate review. *Id.*

Reduced income due to pandemic conditions, as Myricks experienced, is exactly the type of subjective inability that Nevada and other courts typically do not treat as excused for impossibility of purpose. Although the pandemic resulted in closed venues and reduced income for Myricks, nothing made the act of his payment of money owed to Shields objectively impossible. It is undisputed that Myricks continued to earn at least some income from performances and Airbnb but chose to pay other obligations such as child support and the mortgage on the property while making no payments to Shields. Additionally, the second amendment to the loan agreement was executed in July 2021—well into the pandemic—and that agreement extended deadlines and added interest without accounting for any COVID-related excuses, further indicating that ongoing pandemic risk was known and contractually allocated. Notably, no force-majeure provision was included in the second amendment to the loan

agreements despite Myrick's knowledge and notice of the ongoing pandemic. Similarly, there was no contractual condition in the second amendment making Myricks' repayment obligations contingent upon his continued employment in the entertainment business, whether specifically or generally, nor were there conditions placed upon obligations that were tied to the availability of live venues in light of the COVID-19 pandemic ordered shutdowns.

Further, our review of the extra-jurisdictional authorities briefed between the parties on appeal supports that Myricks' economic hardship does not excuse him from payment of his obligations under the amended loan agreements that he entered into with Shields. In *Lantino v. Clay LLC*, for example, the defendants accused of breach of contract under the terms of a settlement agreement argued that COVID-19 pandemic shutdowns made it "impossible" to perform their payment obligations under the terms of that agreement. No. 1:18-CV-12247, 2020 WL 2239957, *1-*3 (S.D.N.Y. May 8, 2020). The United States District Court for the Southern District of New York rejected that defense, emphasizing that the obligation at issue was to pay money, not to operate a business or use premises in a particular way; the pandemic and shutdown orders made performance financially harder, but did not legally or physically prevent payment; and under general contract principles, even severe economic hardship or insolvency does not amount to legal impossibility for a monetary obligation. *Id.* at *3. Ultimately, the *Lantino* court held the defendants to their financial obligations, concluding that "[a]t best, Defendants have established financial difficulties arising out of the COVID-19 pandemic and the PAUSE Executive Order that adversely affected their ability to make the payments called for under the Settlement Agreement." *Id.*

Myricks' position in the present case is materially the same as the *Lantino* defendants. The pandemic may have caused Myricks' entertainment income to be reduced, but it did not prohibit or physically prevent him from paying money in satisfaction of his obligations. Albeit reduced, he continued to earn an income and chose to pay other debts—suggesting that, like the *Lantino* defendants, Myricks experienced financial difficulties, not destruction of the means of performing his duty to repay. Likewise, the cases Myricks advances on appeal do not support his theory of impossibility as a defense against failed performance.

Myricks' reliance on *UMNV 205–207 Newbury, LLC v. Caffé Nero Americas Inc.*, No. 2084-CV-01493-BLS2, 2021 WL 956069 (Mass. Super. Ct. Feb. 8, 2021), is unpersuasive as the facts of that case are inapposite. In *Caffé Nero*, the court excused rent payments during part of the pandemic because government orders directly barred the only use the lease allowed, namely operating a sit-down café on the premises. *Caffé Nero*, 2021 WL 956069, at *5-*6. The lease strictly limited the space to that single purpose "and for no other purpose," and government orders flatly prohibited on-premises consumption. *Id.* at *5. The government's action destroyed the contract's core purpose, so the court excused payment under a theory of frustration of purpose even though paying rent was still physically possible. *Id.* But Myricks' situation is fundamentally different from those facts. Unlike the amended loan agreement between Myricks and Shields, the contract at issue in *Caffé Nero* contained a force majeure provision addressing the risk that performance may become impossible, but which did not address the distinct risk that the performance may still be possible even though the main purpose of the lease was frustrated by events outside of the parties' control. *Id.* at *6.

As an initial point, Myricks is relying upon the *Caffé Nero* court's analysis of the frustration of purpose arguments made in that case, not the impossibility doctrine or force majeure. Nevertheless, the inquiry under both doctrines appears to align at points and is worth our consideration. *See Caffé Nero*, 2021 WL 956069, at *4 ("The principal question in both kinds of cases remains whether an unanticipated circumstance, the risk of which should not fairly be thrown on the promisor, has made performance vitally different from what was reasonably to be expected."). While the COVID-19 pandemic affected Myricks' income stream, it did not place a bar on his ability to perform the payment obligation. The government did not forbid the performance the contract required—paying money to Shields. The pandemic and its resulting shutdowns in Nevada may have reduced Myricks' income from his entertainment roles, but the loan agreement did not itself restrict his obligations to any single, legally prohibited use or activity. Nor was there a government promulgation, statute, or order that made repayment (or the performance) illegal, impossible or excused.

The undisputed facts in the record suggest Myricks continued earning income and paying other debts he chose to pay instead of paying the money owed to Shields. Thus, *Caffé Nero* illustrates an example of when performance is excused because a government order wipes out the only permitted use of a property under the contract, which is dissimilar to Myricks' general monetary obligations that remained legally and physically performable. Myricks experienced economic hardship, not the destruction of the core contractual purpose of the loan agreement and retained the ability to earn income in other ways.

Myricks' reliance on *In re Cinemex USA Real Estate Holdings, Inc.*, 627 B.R. 693 (Bankr. S.D. Fla. 2021), is similarly unhelpful to his

assertion of the impossibility doctrine. There, the United States Bankruptcy Court for the Southern District of Florida found that the COVID-19 pandemic shutdown orders excused rent only while theaters were legally required to close, but not after the state's governor allowed reopening at reduced capacity. *Id.* at 696. Once reopening was permitted, the purpose of the lease—operating a theater—was still legally possible, even if it was unprofitable due to limited capacity, lack of new films, and customer reluctance. *Id.* at 699-700. The *In re Cinemex* court stressed that, under general contract principles, economic hardship, impracticability, or negative operating income do not amount to impossibility or frustration of purpose when the performance itself (operating and paying rent) remains possible. *Id.* at 700-01. But Myricks' situation is, again, dissimilar and far less compelling. As in the theater case, diminished revenue, increased difficulty, and unprofitable conditions do not transform a monetary obligation into impossibility. The pandemic and its related closures simply reduced Myricks' options to earn entertainment income, they did not bar him from satisfying his obligations to pay Shields.

Ultimately, proof of diminished revenue, increased difficulty, and unprofitable conditions do not make payment of a monetary obligation impossible. In the absence of agreed-upon conditions excusing performance, "we are left with the resolutions that parties have bargained for in their contracts, or, where appropriate, the equitable remedies that common law has fashioned." *Id.* at 701. Therefore, we affirm the district court's entry of the monetary judgment against Myricks.

The district court erred by denying partition and requiring Shields to quitclaim her ownership interest

Turning to the real property issues presented by Shields' cross-appeal, it is undisputed that the deed to the property expressly vested title

to the Las Vegas property in both Myricks and Shields "as joint tenants." Shields thus argues that, as a joint tenant and co-obligor to the mortgage, she is presumptively an equal co-owner. She invokes NRS Chapter 39 and its subparts, arguing that this scheme grants her a statutory right to partition by sale of the indivisible condo, and that the district court effectively imposed a constructive trust in Myricks' favor that stripped her of all title and equity. She also argues that, despite quitclaiming her ownership interest in the property, she remains exposed as an obligor to the mortgage—impacting her credit.

Myricks argues that he adequately rebutted the presumption of equal ownership because the parties are unrelated, there was no donative intent to give Shields a true half interest, and he alone has made the real financial contributions including payment of ongoing and mortgage-related costs. He thus contends that partition is unwarranted and that the vesting of 100 percent title in him is an equitable alignment of legal title with the parties' actual intentions. Myricks does not substantively address Shields' obligor and exposure arguments in his reply brief, nor were those concerns discussed by the district court in its findings and judgment.

This court reviews a district court's interpretation of caselaw de novo. *LVMPD v. Blackjack Bonding*, 131 Nev. 80, 85, 343 P.3d 608, 612 (2015). However, "[w]here the trial court, sitting without a jury, makes a determination predicated upon conflicting evidence, that determination will not be disturbed on appeal where supported by substantial evidence." *Trident Constr. Corp. v. W. Elec. Inc.*, 105 Nev. 423, 427, 776 P.2d 1239, 1242 (1989) (internal quotation marks omitted); *see also Dynamic Transit Co.*, 128 Nev. at 761, 291 P.3d at 118 (stating the substantial evidence standard).

As set out in NRS 111.065(1), "[j]oint tenancy in real property may be created by a single will or transfer when expressly declared in the will or transfer to be a joint tenancy, or by transfer from a sole owner to himself or herself and others." Any person holding title to real property as a joint tenant may bring an action for partition of said real property according to the rights of the persons holding title. *See generally* NRS 39.010-39.490; *see also Terrible v. Terrible*, 91 Nev. 279, 282, 534 P.2d 919, 920-21 (1975) (citing *Wolford v. Wolford*, 65 Nev. 710, 715-16, 200 P.2d 988, 991 (1948) ("Every tenant in common that has the right to the present enjoyment of the property, or the proceeds thereof, is entitled to demand a partition of the property as a matter of right.")). Cotenants are presumed to equally share property, "[u]nless circumstances indicate otherwise." *Sack v. Tomlin*, 110 Nev. 204, 213, 871 P.2d 298, 304 (1994). "[U]nequal contributions toward acquisition of property by cotenants who are not related and show no donative intent can rebut the presumption of equal shares." *Id.* If successfully rebutted, fractional shares are based on the amount contributed by each party. *Id.* at 213-14, 871 P.2d at 305; *Langevin v. York*, 111 Nev. 1481, 1484-85, 907 P.2d 981, 983-84 (1995) (extending the *Sack* presumptions to joint tenants and ultimately dividing the property in proportion to each party's contributions to the purchase price).

In *Howard v. Hughes,* the Nevada Supreme Court applied the property interest presumptions outlined in *Sack* and *Langevin* to unmarried joint tenants, and held that "the initial presumption that cotenants share equally must first be successfully rebutted through evidence of lack of relatedness or donative intent, prior to the court dividing the property or proceeds in proportion to each party's contributions." 134 Nev. 664, 667-68, 427 P.3d 1045, 1048-49 (2018). The *Howard* court analyzed and ultimately approved of the approach that the district court in

that case followed in applying the property interest presumptions. *Id.* at 668-69, 427 P.3d at 1049. In particular, the district court began with the presumption that the parties, who were joint tenants, shared the property equally. *Id.* at 667-668, 427 P.3d at 1048. The district court then found that the appellant rebutted the initial presumption of equal ownership with evidence that she paid the entire purchase price of the property. *Id.* at 668, 427 P.3d at 1048.

Having rebutted the first presumption, the appellant in *Howard* was presumed to be the full owner, and the burden shifted to the respondent to prove either that the parties were related, or that the appellant possessed sufficient donative intent. *Id.* at 668, 427 P.3d at 1049. In that vein, the district court went on to conclude that the respondent provided "clear and convincing evidence of [the appellant's] donative intent at the time of the transfer" when executing a quitclaim deed and that the appellant intended to gift the respondent an equal share as a joint tenant when she executed the quitclaim deed. *Id.* Based on that framework, the *Howard* court concluded that the district court "correctly interpreted and applied the presumptions from *Sack* and *Langevin*" and affirmed the district court's decision after determining that the respondent presented sufficient evidence of the appellant's donative intent at trial to rebut the secondary presumption that the parties did not own the property equally. *Id.* at 668-69, 427 P.3d at 1049.

Though Nevada has a statutory partition process as outlined above, a partition action remains one in which the courts will apply broad principles of equity. *See Dall v. Confidence Mining Co.*, 3 Nev. 531, 535 (1868). The use of constructive trusts or other extraordinary equitable devices to supplant the partition statutes risks creation—rather than prevention—of unjust enrichment. *See generally Locken v. Locken*, 98 Nev.

369, 372, 650 P.2d 803, 804-05 (1982) (defining a constructive trust as "a remedial device by which the holder of legal title to property is held to be a trustee of that property for the benefit of another who in good conscience is entitled to it"). Disparity in contributions should be addressed through equitable accounting in partition or structured buyout proceedings–recognizing that partition actions are equitable proceedings where courts should account for unequal contributions among co-tenants. *Kent v. Kent*, 108 Nev. 398, 402, 835 P.2d 8, 10 (1992) (citing NRS 39.440). Nevada courts are authorized to "adjudge compensation to be made by one party to another, on account of the inequality of partition" as when equal partition cannot be achieved without prejudice to some parties. *Id.*

Here, the deed to the Las Vegas condominium expressly vests title in Myricks and Shields as joint tenants, and both parties acknowledge that Shields' credit was used to obtain the mortgage. Myricks introduced documentary evidence, which the court accepted, that he subsequently paid all mortgage installments, HOA dues, utilities, insurance, and maintenance expenses for the property.[4] Shields did not make any mortgage, HOA, or maintenance payments and has never lived in the condominium but remains a co-obligor on the mortgage. The facts therefore indicate that Shields must hold some cognizable equitable interest, even if any potential monetary recovery is zero.

Because the parties own the property as joint tenants, the district court was required to begin with the presumption that the parties share the property equally. *See Howard*, 134 Nev. at 667-68, 427 P.3d at

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[4]We note that, although Myricks continued to earn income during the pandemic, he apparently chose to pay other obligations rather than repay his loan obligations to Shields.

1048. But the district court did not expressly analyze the parties' respective interests in the property based on the burden-shifting framework as established in *Sacks*, *Langevin*, and *Howard*. Rather than employing the statutory scheme properly, the district court found on this record that Shields' contribution was "limited to the use of her credit," that she lacked any legitimate expectation of ownership, and ordered her to quitclaim her interest within 60 days, vesting 100 percent ownership in Myricks.

Confusingly, the district court made no consideration or mention of the fact that Shields remained an obligor on the mortgage despite its quitclaim determination. Nor did Myricks—in his combined reply brief and answering brief on cross-appeal—substantively address Shields' arguments that highlight her continued exposure as an obligor. *See* NRAP 28.1(c)(3) ("The appellant must file a brief that responds to the opening brief in the cross-appeal and may, in the same brief, reply to the response in the appeal."); *see also Polk v. State,* 126 Nev. 180, 185, 233 P.3d 357, 360 (2010) (stating that a party confesses error when its answering brief "effectively fail[s] to address a significant issue raised in the appeal"); *Ozawa v. Vision Airlines, Inc.*, 125 Nev. 556, 563, 216 P.3d 788, 793 (2009) (treating a party's failure to respond to an argument as a concession that the argument is meritorious).

We therefore conclude that the district court's quitclaim decision was erroneous as it effectively imposed a constructive trust without the traditional predicates of fraud or unjust enrichment—a result that is difficult to reconcile with Nevada's admonition that equitable remedies should not supplant statutory procedures when such procedures are adequate. *See Holland v. Anthony L. Barney, Ltd.*, 139 Nev. 476, 484-85, 540 P.3d 1074, 1083 (Ct. App. 2023) (clarifying that "equitable remedies, such as equitable liens and constructive trusts, are available to a plaintiff

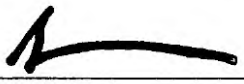
when legal remedies, such as statutory review, are not available or are inadequate"); *see also Klabacka v. Nelson*, 133 Nev. 164, 181, 394 P.3d 940, 953 (2017) (emphasizing that "imposition of a constructive trust violates the statutory protections shielding spendthrift trusts from court order" and that "statutorily defined spendthrift protections reflect a considered policy choice"). The more appropriate course by the district court in this case would have been to recognize Myricks' superior contribution through an unequal allocation of net proceeds or a fair buyout, possibly through refinancing or sale, but to do so within the statutory partition framework under NRS Chapter 39.

While the district court's findings as to relative contributions may stand, we cannot say that the court's error in failing to properly apply the controlling statutory scheme was harmless. *Cf. Wyeth v. Rowatt*, 126 Nev. 446, 465, 244 P.3d 765, 778 (2010) (explaining that, to establish an error is not harmless and reversal is warranted, "the movant must show that the error affects the party's substantial rights so that, but for the alleged error, a different result might reasonably have been reached"). Reversal and remand of this portion of the challenged order for additional proceedings is therefore required for the district court to properly analyze and apply the property interest presumptions set forth above and determine the parties' respective interests in the subject property. *Cf. In re Guardianship of B.A.A.R.*, 136 Nev. 494, 500, 474 P.3d 838, 844 (Ct. App. 2020) ("[B]ecause it is not clear that the district court would have reached the same conclusion . . . had it applied the correct standard of proof, we must reverse the district court's decision and remand for further proceedings."). On remand, the district court is instructed to conduct proceedings consistent with NRS 39.010-.150, considering partition by sale with equitable accounting or a structured buyout of Shields' interest by

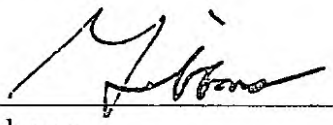
Myricks by sale or refinancing with corresponding accounting to satisfy Myricks' debt to Shields.

Accordingly, for the reasons set forth above, we

ORDER the judgment of the district court AFFIRMED IN PART AND REVERSED IN PART AND REMAND this matter to the district court for proceedings consistent with this order.[5]



_____, C.J.
Bulla



_____, J.
Gibbons



_____, J.
Westbrook

cc: Hon. Tina Talim, District Judge
Bravo Schrager, LLP
Patricia A. Marr, Ltd.
Barbara Buckley
Kelly H. Dove
Paul C. Ray
Eighth District Court Clerk

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[5]Insofar as the parties have raised arguments that are not specifically addressed in this order, we have considered the same and conclude that they do not provide a basis for relief or need not be reached given the disposition of this appeal. *See Johnson v. Dir., Nev. Dep't of Prisons*, 105 Nev. 314, 315 n.1, 774 P.2d 1047, 1048 n.1 (1989) (declining to resolve an issue in light of the court's disposition).