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UNDER ARIZ. R. SUP. CT. 111(c), THIS DECISION DOES NOT CREATE LEGAL PRECEDENT
AND MAY NOT BE CITED EXCEPT AS AUTHORIZED.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

RODNEY WILLIAMS dba WILLIAMS
FARMS, *Plaintiff/Appellant*,

v.

FARM SOURCES INTERNATIONAL
CAPITAL, LLC, a Delaware limited
liability company, *Defendant/Appellee*.

No. 1 CA-CV 12-0839
FILED 12-26-2013

Appeal from the Superior Court in Yuma County
No. S1400CV201200332
The Honorable John P. Plante, Judge

AFFIRMED

COUNSEL

Don B. Engler, PC, Yuma
By Donald B. Engler

Counsel for Plaintiff/Appellant

Law Offices of Larry W. Suciu, PLC, Yuma
By Barry L. Olsen, Larry W. Suciu

Counsel for Defendant/Appellee

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MEMORANDUM DECISION

Chief Judge Diane M. Johnsen delivered the decision of the Court, in which Presiding Judge Lawrence F. Winthrop and Judge Margaret H. Downie joined.

J O H N S E N, Chief Judge:

¶1 Rodney Williams dba Williams Farms ("Williams") appeals from the superior court's entry of summary judgment in favor of Farm Sources International Capital, LLC ("FSI Capital"). The court held FSI Capital had a first-position security interest in a cotton crop and released to FSI Capital the proceeds of the cotton, which had been deposited with the court in an interpleader action. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 In November 2010 and January 2011, Williams leased farm land from the Imperial Irrigation District ("Irrigation District"). The leases transferred the Irrigation District's "right, title, claim and interest" in any crops grown on the land to Williams and gave the Irrigation District a security interest in such crops in the event of a default.

¶3 A few months later, Williams and Robert Taylor Farming, L.L.C. ("Taylor") entered a joint farming agreement, under which Williams agreed to provide the leased land and Taylor agreed to arrange for the financing necessary for their joint venture. Taylor then approached a sister company of FSI Capital, Farm Sources International Holding, LLC ("FSI Holding"), which agreed to make a loan to the venture only if could obtain an ownership interest in the enterprise. To that effect, Taylor and FSI Holding formed Imperial Valley 1137, LLC ("Imperial Valley"), and Taylor, with Williams's written consent, assigned all of its "right[s], title, claim and interest" in the venture to Imperial Valley. In turn, Imperial Valley assumed all of Taylor's duties under the joint farming agreement.

¶4 FSI Capital then loaned Imperial Valley \$981,000 for use in the "planting and harvesting" of cotton on the land. Imperial Valley granted FSI Capital a security interest in the cotton, and Williams, Imperial Valley and the Irrigation District executed a "Crop Lease Subordination Agreement" establishing that FSI Capital's security interest

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would have first priority. Specifically, the subordination agreement provided:

In consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, and in order to induce [FSI Capital] to make the loan . . . it is hereby declared, understood and agreed as follows:

1. That [FSI Capital's] Lien, and any renewals or extensions thereof, shall unconditionally be and remain at all times a lien or charge prior and superior to the lien or charge of the [Irrigation District's] Lien.

¶5 Eventually, cotton harvested from the land was transported to Yuco Gin, where it was ginned and baled. With Williams, Imperial Valley and FSI Capital all claiming an interest in the cotton, Yuco Gin filed an interpleader action naming each as a defendant. Ten days later, Williams filed a separate complaint against Yuco Gin, Imperial Valley and FSI Capital, claiming to be the rightful owner of the cotton and alleging breach of contract and conversion. The superior court consolidated the two cases and, by stipulation, allowed the cotton to be sold, generating \$551,183.72 in proceeds, which were deposited with the court.

¶6 FSI Capital then filed a motion for partial summary judgment, seeking a declaratory judgment pursuant to Arizona Revised Statutes ("A.R.S.") sections 12-1831 to -1846 (2013) that it had a senior lien on the cotton and its proceeds and was entitled to distribution of the funds on deposit with the court up to the full amount of its lien.¹ The superior court granted FSI Capital's motion over Williams's objection and ordered the release of the funds to FSI Capital.

¶7 Williams timely appealed from an amended judgment. We have jurisdiction pursuant to Article 6, Section 9 of the Arizona Constitution and A.R.S. § 12-2101(A)(1) (2013).

¹ Absent material revision after the date of the events at issue, we cite a statute's current version.

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DISCUSSION

¶8 Summary judgment is appropriate when "there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law." Ariz. R. Civ. P. 56(a). We review the grant of a motion for summary judgment *de novo*, viewing the facts and inferences drawn therefrom in the light most favorable to the party against which judgment was entered. *Centennial Dev. Group, LLC v. Lawyer's Title Ins. Corp.*, 233 Ariz. 147, 149, ¶ 4, 310 P.3d 23, 25 (App. 2013).

¶9 Williams argues the superior court lacked jurisdiction to make any judicial determination or grant any relief pursuant to A.R.S. §§ 12-1831 to -1846 because there was no justiciable controversy.

¶10 The law provides that any person whose "rights, status, or other legal relations" are affected by a contract may seek a judicial determination of the construction of that contract or "obtain a declaration of rights, status, or other legal relations thereunder." A.R.S. § 12-1832. "For a court to grant declaratory judgment, a justiciable controversy must exist." *Hunt v. Richardson*, 216 Ariz. 114, 125, ¶ 37, 163 P.3d 1064, 1075 (App. 2007). "[A] justiciable controversy exists if there is 'an assertion of a right, status, or legal relation in which plaintiff has a definite interest'" and a denial of that interest by the opposing party. *Keggi v. Northbrook Prop. & Cas. Ins. Co.*, 199 Ariz. 43, 45, ¶ 10, 13 P.3d 785, 787 (App. 2000). In other words, the statute is properly invoked when a party has a protectable interest and that interest has been denied. *See Ariz. Soc'y of Pathologists v. Ariz. Health Care Cost Containment Sys. Admin.*, 201 Ariz. 553, 557, ¶ 19, 38 P.3d 1218, 1222 (App. 2002).

¶11 As we understand Williams's argument, he contends the interpleader complaint did not contain facts sufficient to establish a justiciable controversy. But the complaint alleged that on the one hand, Williams had demanded release of the cotton and that, on the other hand, Imperial Valley had asserted that Williams "had 'no claims to the cotton.'" The complaint further alleged that the plaintiff, Yuco Gin, had "received conflicting claims for the cotton" from Williams, FSI Capital and Imperial Valley. Moreover, in its response to the complaint, FSI Capital asserted an interest in the proceeds of the cotton, stating "The cotton crop . . . is subject to a valid first secured position in favor of [FSI Capital] in the principal amount of \$981,000." In contrast, Williams, in a motion to dismiss the interpleader complaint, claimed a right to possess the cotton, and in his own complaint he denied his right to possess the cotton was affected by anything in the security agreement. In sum, the record makes clear that

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the interpleader action presented a sufficient justiciable controversy to warrant declaratory relief. *See Riley v. Cochise County*, 10 Ariz. App. 55, 59, 455 P.2d 1005, 1009 (1969) ("In every declaratory judgment action there must be sufficient factual allegations to outline a justiciable controversy.").

¶12 We reject Williams's further argument that FSI Capital was not entitled to relief because it failed to file a claim in the interpleader. We are aware of no authority to support Williams's apparent contention that a defendant who asserts an interest in the subject matter of an interpleader must file a counterclaim or cross-claim to prevail.

¶13 Next, Williams argues the superior court lacked jurisdiction to enter a declaratory judgment in favor of FSI Capital without first determining the owner of the cotton. The ownership of the cotton, however, was not in dispute. FSI Capital did not claim to be the owner of the cotton; rather, it claimed a first-priority lien on the cotton and its proceeds. The only issue the interpleader presented was whether the subordination agreement gave FSI Capital a first-priority interest superior to any interest of Williams, and the superior court concluded that it did.

¶14 Williams contends the security agreement is not enforceable against him because he did not sign it. As Williams acknowledges, however, he executed the subordination agreement that granted FSI Capital a first-position interest in the cotton. Williams argues he signed the subordination agreement as a "tenant," or, in his words, a "nominal party," but he offers no authority for his implicit argument that the designation of "tenant" limited the legal effect of the consent signified by his signature. The leases Williams entered with the Irrigation District gave the Irrigation District a security interest in crops grown on the property; the subordination agreement allowed FSI Capital's security interest to supersede that of the Irrigation District. Thus, by signing the subordination agreement, Williams explicitly consented to subordinate his interests in favor of FSI Capital.

¶15 Williams next argues that the court lacked jurisdiction to grant relief pursuant to A.R.S. § 12-1838 by distributing the sales proceeds of the cotton. Section 12-1838 provides that the court may grant "[f]urther relief based on a declaratory judgment . . . whenever necessary or proper," and also states, "[t]he application therefor shall be by complaint or appropriate pleading to a court having jurisdiction to grant the relief." Williams argues the superior court lacked jurisdiction to order the cotton proceeds released to FSI Capital because FSI Capital did not file a complaint or other "pleading" seeking the proceeds.

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¶16 We do not accept Williams's argument that, after the superior court determined FSI Capital's interest in the cotton to be superior to the interests of the other parties, the court lacked the power to release the proceeds of the crop to FSI Capital unless and until FSI Capital filed a complaint seeking such relief. Yuco Gin's complaint informed the court that it was "ready, willing and able . . . to release the cotton as the Court directs" and sought "such other and further relief as the Court deems just in the premises." Under the circumstances, A.R.S. § 12-1838 did not prevent the superior court from ordering the release of the sales proceeds to FSI Capital. *See* Ariz. R. Civ. P. 54(d) ("Except as to a party against whom a judgment is entered by default, every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in the party's pleadings."); *Starkovich v. Noye*, 111 Ariz. 347, 351, 529 P.2d 698, 702 (1974) ("The Uniform Declaratory Judgment Act . . . seek[s] to avoid multiplicity of actions by providing one form of action and allowing a single court to grant all suitable relief."); *see also* Ariz. R. Civ. P. 1 (civil procedure rules "construed to secure the just, speedy, and inexpensive determination of every action.").

¶17 In any event, FSI Capital's motion for summary judgment sought an order releasing the sales proceeds, and we have held that a motion seeking supplemental relief in a declaratory judgment action satisfies any requirement in A.R.S. § 12-1838 that a party file a "pleading" requesting such relief. *Associated Aviation Underwriters v. Wood*, 209 Ariz. 137, 177-78, ¶¶ 140-41, 98 P.3d 572, 612-13 (App. 2004).

¶18 Finally, Williams argues the court erred by distributing the proceeds of the cotton to FSI Capital without proof of a default on the note. But the plain terms of the security agreement do not require such a default: "Unless waived by Lender, all proceeds from any disposition of the Collateral (for whatever reason) shall be held in trust for Lender and shall not be commingled with any other funds . . . Upon receipt, [Imperial Valley] shall immediately deliver any such proceeds to Lender." Further: "At any time before or after the occurrence of an Event of Default, Lender may collect all proceeds of the Collateral with notice to [Imperial Valley]." Accordingly, the superior court did not err by distributing the crop proceeds to FSI Capital.

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CONCLUSION

¶19 For the reasons stated above, we affirm the judgment. We grant FSI Capital's request pursuant to A.R.S. § 12-341.01 (2013) for its costs and reasonable attorney's fees upon its compliance with Arizona Rule of Civil Appellate Procedure 21(c).



Ruth A. Willingham · Clerk of the Court
FILED: mjt