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COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

CADLES OF GRASSY MEADOWS II, LLC, Plaintiff/Appellant, v. MOHAMMED QURESHI, Defendant/Appellee.	2 CA-CV 2008-0135 DEPARTMENT B MEMORANDUM DECISION Not for Publication Rule 28, Rules of Civil Appellate Procedure

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. C-20073285

Honorable John E. Davis, Judge

AFFIRMED

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and

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B R AM M E R, Judge.

¶1 Appellant, Cadles of Grassy Meadows II, LLC (Cadles), attempted to domesticate a judgment entered in Utah against appellee, Mohammed Qureshi. Cadles appeals the trial court's judgment granting Qureshi's motion to vacate the filing of the Utah judgment and awarding Quereshi his reasonable costs and attorney fees. Cadles argues the court erred in finding the Utah judgment invalid and in awarding Qureshi attorney fees. We affirm.

Factual and Procedural Background

¶2 The relevant facts are undisputed. In 1993, Qureshi was involved in a dispute over a promissory note with the Resolution Trust Corporation (RTC) in the United States District Court of the Central District of Utah. In June 1993, the district court entered judgment against Qureshi in the amount of $24,574.29, with interest accruing "at the rate provided in the Note." In April 1994, the court entered a separate judgment awarding the RTC $22,630.29 in attorney fees and costs. After a series of assignments, Cadles acquired the judgments in October 2003.

¶3 In November 2005, Cadles filed both federal judgments in Pima County Superior Court pursuant to the Revised Uniform Enforcement of Foreign Judgments Act, A.R.S. §§ 12-1701 through 12-1708. Qureshi moved to vacate the filing and domestication of those judgments. After a hearing, the court granted Qureshi's motion, finding the four-

year statute of limitations for filing the judgments had run, precluding their enforcement. *See* A.R.S. § 12-544(3).

¶4 In July 2006, Cadles filed a complaint in a Utah state court seeking to renew the federal judgments. Cadles alleged in its complaint that "[i]nterest [wa]s owing on the judgment[s]" at a rate of 3.49 percent and 4.51 percent, respectively. Cadles also asked for its reasonable attorney fees and costs incurred in renewing the judgments. Although Qureshi was served with a summons and copy of Cadles's complaint, he neither appeared nor responded to the complaint. The Utah court found Qureshi in default and, in November 2006, entered judgment against him in the amount of $79,227.29—the combined amount of the two federal judgments, plus accrued interest at the rates Cadles had alleged the judgments imposed, plus the Utah court's award of costs and attorney fees Cadles had incurred in obtaining the default judgment. The court ordered that interest would accrue on the new judgment from that time forward at a rate of 6.36 percent. Last, the court awarded Cadles the reasonable future costs and attorney fees it might incur in attempting to collect the judgment.

¶5 In June 2007, Cadles filed the Utah judgment in Pima County Superior Court. Qureshi moved to vacate the filing, arguing the judgment was invalid because, he contended, state courts lack subject matter jurisdiction to renew federal judgments. Qureshi further asserted that, based on the Pima County court's determination in 2005 that Cadles was time-barred from filing the original federal judgments in Arizona, the doctrine of res judicata

prevented Cadles from filing the Utah judgment that was based on those lapsed federal judgments.

¶6 Qureshi claimed he was entitled to his reasonable attorney fees pursuant to A.R.S. § 12-349, because Cadles had filed the Utah judgment "without substantial justification" and "primarily for delay or harassment." After a hearing, the trial court granted Qureshi's motion, reasoning that state courts lack jurisdiction to renew federal judgments. Further, without explanation, it awarded Qureshi his costs and attorney fees. Cadles moved the court to reconsider its ruling, contesting both the granting of Quereshi's motion and the award of attorney fees. The court declined to reconsider its ruling and entered judgment in favor of Qureshi. This appeal followed.

Discussion

Utah judgment

¶7 Cadles argues the trial court erred in ruling the Utah judgment invalid and in vacating the judgment's Arizona filing on that basis because, Cadles asserts, Utah law expressly permits the courts of that state to renew federal judgments. Cadles further contends the doctrine of res judicata is inapplicable here, because the Utah judgment was a "new and different judgment" than the federal judgments. Insofar as our review of the trial court's decision presents questions of law, our review is de novo. *See Adage Towing & Recovery, Inc. v. City of Tucson*, 187 Ariz. 396, 398, 930 P.2d 473, 475 (App. 1996). And, we may affirm the court's decision for any reason supported by the record and the law. *See id.*

¶8 Even assuming Cadles is correct that Utah state courts may indeed renew federal judgments and that res judicata would not prevent Cadles from filing the resulting Utah judgment, we need not reach those arguments because we find Cadles did not properly renew the federal judgments in Utah. In determining whether the state court judgment Cadles obtained in Utah is valid and entitled to full faith and credit in Arizona, we must look to Utah law. *See Phares v. Nutter*, 125 Ariz. 291, 293, 609 P.2d 561, 563 (1980) (invalid foreign judgments not entitled full faith and credit); *Ibach v. Ibach*, 123 Ariz. 507, 510-11, 600 P.2d 1370, 1373-74 (1979) (validity of foreign judgment determined by laws of state where judgment rendered).

¶9 As previously noted, the complaint Cadles filed in Utah asked the court to "renew" the federal judgments and award Cadles the costs and attorney fees it had incurred in obtaining the renewed judgment. The Utah court entered judgment against Qureshi by default for the principal amount owed under the federal judgments plus accrued interest, but it imposed a new, higher interest rate to take effect immediately. The court further awarded Cadles not only its requested costs and attorney fees, but also any reasonable future costs and attorney fees it might incur in attempting to collect the judgment. But, a renewed judgment may not "attempt to enforce, collect, or expand the original judgment. . . . [Rather, it should] maintain the status quo by preventing the judgment's lapse under the statute of limitations." *Barber v. Emporium P'ship*, 800 P.2d 795, 797 (Utah 1990).

¶10 Relying on *Potomac Leasing Co. v. Dasco Technol. Corp*., 10 P.3d 972 (Utah 2000), and *Yergensen v. Ford*, 402 P.2d 696 (Utah 1965), Cadles nonetheless asserts in its

supplemental brief in this court that, "when a money judgment holder files an 'action for a new judgment,' as [Cadles] did here, the foreign judgment is 'transmuted' to a Utah judgment." Cadles reasons that, because Utah law provides that its judgments bear interest at the statutory rate applicable in the year of their entry, the Utah court properly ordered interest to accrue on the renewed judgment at a rate of 6.36 percent—the statutory interest rate applicable to Utah judgments entered in 2006. *See Bailey-Allen Co. v. Kurzet*, 876 P.2d 421, 427 (Utah Ct. App. 1994); Utah Code Ann. § 15-1-4(3)(a).

¶11 But Cadles's reliance on *Potomac Leasing* and *Yergensen* is misplaced. In *Yergensen*, the Utah Supreme Court observed that one holding a foreign judgment may file in Utah courts either an action to enforce the foreign judgment in Utah or an "action for a new judgment," that is, "an action to renew" the foreign judgment. 402 P.2d at 697, 698. In *Potomac Leasing*, the supreme court noted that, when a holder of a foreign judgment brings an action to enforce the judgment in Utah, the judgment is "'transmute[d]'" into a Utah judgment, in which case the foreign judgment becomes enforceable in Utah to the same extent as a judgment originally entered in that state. 10 P.3d 792, ¶ 6, *quoting Pan Energy v. Martin*, 813 P.2d 1142, 1143 (Utah 1991).

¶12 Cadles did not file an action to enforce the federal judgments in Utah but, instead, filed a "[c]omplaint to renew [the] judgment[s]." And, assuming the transmutation described in *Potomac Leasing* also occurs when a foreign-judgment holder renews the judgment in Utah, *Potomac Leasing* does not suggest such transmutation allows the trial court to modify the interest rate, or any other any other provision in the foreign judgment,

when making it a Utah judgment. *See id.* Rather, "Utah law treats a renewal action . . . as merely a continuation of the original proceeding." *Von Hake v. Thomas*, 858 P.2d 193, 196 (Utah Ct. App. 1993). Accordingly, as noted above, a renewed judgment may only "maintain the status quo" and may not alter the original judgment in any way. *Barber*, 800 P.2d at 797. By modifying and expanding the original judgments in this case, therefore, the Utah court did not properly "renew" them. *See Barber*, 800 P.2d at 797; *Von Hake*, 585 P.2d at 196.

¶13 Moreover, in its complaint to renew the federal judgments, Cadles did not ask the Utah court to impose a new interest rate or award it any costs and attorney fees it might incur in future collection attempts.[1] Although a party in default is deemed to have admitted all "well-pled facts alleged in the pleadings," its admissions are limited to those facts, and "a court may grant relief only [upon] a valid legal basis supported by well-pled facts . . . asserted in the complaint." *Skanchy v. Calcados Ortope SA*, 952 P.2d 1071, 1076 (Utah 1998). Pursuant to Rule 54(c)(2) of the Utah Rules of Civil Procedure, "[a] judgment by

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[1]In its supplemental brief in this court, Cadles insists it had requested the new interest rate in its complaint by asking the court to impose interest "at the judgment rate once judgment [wa]s entered." But Cadles's complaint did not specify to which "judgment rate" it was referring and only identified the rates allegedly imposed by the federal judgments. And, as we have explained, the Utah court could not properly have imposed a new interest rate even had Cadles requested it.

Cadles also suggests it was not required to expressly request its costs and attorney fees for future collection attempts because the federal judgments already gave Qureshi "notice of his potential liability for future collection costs" by virtue of their citation of Utah Code Ann. § 57-1-32. Although § 57-1-32 provides that a "prevailing party shall be entitled to collect its costs and reasonable attorney fees" incurred in bringing the underlying action, it does not provide for, and the federal judgments did not award, attorney fees and costs Cadles might incur in future attempts to collect the judgment.

default shall not be different in kind from, or exceed in amount, that specifically prayed for." A court exceeds its jurisdiction in entering a default judgment that determines an issue not raised or grants relief not sought in the complaint, and such a judgment is, therefore, void. *See Combe v. Warren's Family Drive-Inns, Inc.*, 680 P.2d 733, 736 (Utah 1984) (trial court "has no authority" to "grant judgment for relief which is neither requested by the pleadings nor within the theory on which the case was tried"; judgment or findings rendered outside pleadings "a nullity"); *Russell v. Martell*, 681 P.2d 1193, 1195 (Utah 1984) (courts "not at liberty to deviate" from Rule 54(c)(2)). Indeed, Cadles admits in its brief that the judgment it wants Arizona courts to enforce is a "new and different judgment" than those originally entered against Qureshi in federal court.[2] Because the Utah court lacked jurisdiction to render the judgment as entered, the judgment is void, and the trial court did not err in vacating its filing in Arizona. *See Phares*, 125 Ariz. at 293, 609 P.2d at 563.

Attorney fee award

¶14 In his motion to vacate the filing of the Utah judgment, Qureshi requested his reasonable attorney fees pursuant to A.R.S. § 12-349(A)(1) and (2), which provide that a court "shall assess reasonable attorney fees" against a party that "[b]rings or defends a claim without substantial justification" or "[b]rings or defends a claim solely or primarily for delay

[2]At oral argument in this court, moreover, Cadles conceded that the Utah judgment had inaccurately stated the amount of interest accrued on the federal judgments and that the future collection costs had been inappropriately included. Nonetheless, Cadles asked this court to "correct" and enforce the Utah judgment. Cadles provided no authority, and we are aware of none, that would authorize us to take such an unusual step. And, as noted previously, there is nothing in the record establishing any specific rate of interest applicable to either federal judgment.

or harassment." Qureshi's motion asserted he was entitled to attorney fees because Cadles's attempt to file the Utah judgment "forc[ed] [him] to expend additional time and resources responding to issues which have been previously litigated and resolved in his favor." The trial court granted Qureshi's request without making findings of fact or otherwise explaining the basis for the award.

¶15 Cadles contends the trial court erred in awarding Qureshi his attorney fees. It concedes it has waived its right to challenge the court's failure to make factual findings because it did not raise that issue below. *See Trantor v. Fredrickson*, 179 Ariz. 299, 300-01, 878 P.2d 657, 658-59 (1994) (although trial court required to make findings of fact supporting attorney fee award, failure to contest lack of findings in trial court waives issue on appeal). Nonetheless, Cadles asserts it has preserved its right to challenge the award on the grounds that Qureshi "presented absolutely no evidence" supporting his request for an attorney fee award under either § 12-349(A)(1) or (2) and that "the record is completely devoid" of such evidence.

¶16 Qureshi asserts Cadles has waived this argument as well. Indeed, although Cadles challenged the award of attorney fees in its motion for reconsideration, the only ground it asserted for doing so was that the court had erred in granting Qureshi's motion to vacate the filing of the Utah judgment. Because Cadles did not challenge the award below on the basis it now asserts, it has forfeited that argument on appeal, and we decline to address it further. *See Maher v. Urman*, 211 Ariz. 543, ¶ 13, 124 P.3d 770, 775 (App. 2005) (arguments not raised in trial court waived on appeal).

Disposition

¶17 For the foregoing reasons, we affirm the trial court's judgment denying Cadles's filing and attempted domestication of the Utah judgment and awarding costs and attorney fees to Qureshi.

J. WILLIAM BRAMMER, JR., Judge

CONCURRING:

PETER J. ECKERSTROM, Presiding Judge

GARYE L. VÁSQUEZ, Judge