

DA 19-0012

IN THE SUPREME COURT OF THE STATE OF MONTANA

2019 MT 269N

GOULD RANCH CATTLE COMPANY, a Colorado corporation,

Plaintiff and Appellee,

v.

IRISH BLACK CATTLE ASSOCIATION, a Montana non-profit corporation,

Defendant and Appellant.

APPEAL FROM: District Court of the Fourth Judicial District,
In and For the County of Missoula, Cause No. DV 17-684
Honorable John W. Larson, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Richard A. Reep, Cory R. Laird, Seamus M. Molloy, Reep, Bell, Laird &
Jasper, P.C., Missoula, Montana

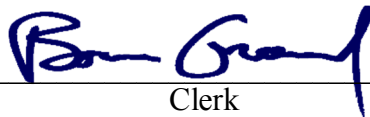
For Appellee:

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Montana

Submitted on Briefs: August 21, 2019

Decided: November 12, 2019

Filed:


Clerk

Justice Jim Rice delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(c), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent. Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 Irish Black Cattle Association (IBCA) challenges the preliminary injunction entered by the Fourth Judicial District Court, Missoula County, enjoining IBCA from making any efforts to terminate or negatively impact the membership of Gould Ranch Cattle Company (GRCC) within the IBCA during the pendency of these proceedings.

¶3 The preliminary injunction was entered after this Court reversed the District Court's earlier entry of a permanent injunction against IBCA in favor of GRCC, and remanded the matter "for consideration of Gould Ranch's request for a preliminary injunction and the appropriateness of injunctive relief, and for the District Court to make sufficient findings of fact and conclusions of law." *Gould Ranch Cattle Co. v. Irish Black Cattle Ass'n*, 2018 MT 80N, ¶ 9, 392 Mont. 551, 414 P.3d 1248 (*Gould I*). The background of the dispute leading to this proceeding is set forth in *Gould I* and will not be repeated here. *Gould I*, ¶¶ 2-6. Simply, "[t]o prevent [IBCA] from adversely affecting its membership in [IBCA], . . . [GRCC] filed suit under the Montana Uniform Declaratory Judgments Act §§ 27-8-101 to -313, MCA; a request for preliminary and permanent injunctive relief; and

a violation of § 35-2-520, MCA, on the basis that [IBCA's] decisions were allegedly contrary to its bylaws.” *Gould I*, ¶ 6.

¶4 Upon remand, the District Court conducted a hearing and granted a preliminary injunction, entering an extensive order upon numerous findings of fact and conclusions of law. It found GRCC had, at least, been threatened with irreparable damage by IBCA's 22-month delay in issuing registration certificates for sales of GRCC's cattle, and by IBCA's advisement that it had already determined GRCC's issuance of placeholder documentation to cattle buyers constituted 3 incurable violations of the prior settlement agreement of the organization, including that a hearing would be convened to determine if GRCC's membership would be terminated.

¶5 “[M]anifest abuse of discretion’ is the appropriate standard for reviewing the granting of a preliminary or permanent injunction. A ‘manifest’ abuse of discretion is one that is obvious, evident or unmistakable.” *Shammel v. Canyon Res. Corp.*, 2003 MT 372, ¶ 12, 319 Mont. 132, 82 P.3d 912. The District Court granted preliminary injunction based on § 27-19-201(1)-(3), MCA, although the statute provides a disjunctive test for relief, and only one subsection must be met to issue the injunction. *Sweet Grass Farms, Ltd. v. Bd. of Cnty. Comm'rs*, 2000 MT 147, ¶ 27, 300 Mont. 66, 2 P.3d 825. Section 27-19-201, MCA, provides in relevant part:

An injunction order may be granted in the following cases:

(1) when it appears that the applicant is entitled to the relief demanded and the relief or any part of the relief consists in restraining the commission or continuance of the act complained of, either for a limited period or perpetually;

(2) when it appears that the commission or continuance of some act during the litigation would produce a great or irreparable injury to the applicant;

(3) when it appears during the litigation that the adverse party is doing or threatens or is about to do or is procuring or suffering to be done some act in violation of the applicant's rights, respecting the subject of the action, and tending to render the judgment ineffectual;

“[A]n applicant for a preliminary injunction must establish a prima facie case, or show that it is at least doubtful whether or not he will suffer irreparable injury before his rights can be fully litigated.” *Sandrock v. DeTienne*, 2010 MT 237, ¶ 16, 358 Mont. 175, 243 P.3d 1123 (citing *Benefis Healthcare v. Great Falls Clinic, LLP*, 2006 MT 254, ¶ 14, 334 Mont. 86, 146 P.3d 714).

¶6 The District Court's order and the record show that GRCC presented at least a prima facie case that it will suffer irreparable harm to their reputation, ability to market cattle, and its membership interest, if IBCA is not enjoined. Preventing IBCA from adversely affecting GRCC's membership before a trial on the merits will preserve the status quo at the last peaceable condition and minimize the damage to all parties in the controversy. *Sandrock*, ¶ 16. Although IBCA argues the injury to GRCC is not ripe because its membership has not yet been adversely affected, “[a]n applicant for preliminary injunction must make ‘some demonstration of *threatened harm or injury*, whether under the “great or irreparable injury” standard of subsection (2), or the lesser degree of harm implied within the other subsections of § 27-19-201, MCA.” *Weems v. State*, 2019 MT 98, ¶ 17, 395 Mont. 350, 440 P.3d 4 (citing *BAM Ventures, LLC v. Schifferman*, 2019 MT 67, ¶ 16, 395 Mont. 160, 437 P.3d 142) (emphasis added). There is a finding that IBCA has already

determined that GRCC violated the organization's settlement agreement, and has indicated an intention to convene a hearing to revoke GRCC's membership. The District Court did not manifestly abuse its discretion in granting the injunction.

¶7 However, as IBCA correctly argues, some of the findings and conclusions entered by the District Court went beyond the appropriate inquiry to be made upon consideration of a preliminary injunction. "In determining the merits of a preliminary injunction, it is not the province of either the District Court or this Court on appeal to determine finally matters that may arise upon a trial on the merits. The limited function of a preliminary injunction is to preserve the status quo and to minimize the harm to all parties pending full trial; findings and conclusions directed toward the resolution of the ultimate issues are properly reserved for trial on the merits." *Yockey v. Kearns Props., LLC*, 2005 MT 27, ¶ 18, 326 Mont. 28, 106 P.3d 1185 (internal citations omitted). Although the District Court often couched its findings and conclusions in the language of preliminary injunction, the order encroaches upon the ultimate issues of the case. For example, findings in the preliminary injunction order determine that (1) IBCA breached the Settlement Agreement, (2) that IBCA acted arbitrarily and capriciously, and (3) that GRCC suffered damages as a result. These, and any other issues beyond the preservation of the status quo, are reserved for a trial on the merits. *Yockey*, ¶ 20; see also *Benefis Healthcare*, ¶ 32 ("we implore trial courts . . . to be careful not to resolve ultimate issues of the case.").

¶8 We have determined to decide this case pursuant to Section I, Paragraph 3(c) of our Internal Operating Rules, which provides for memorandum opinions. This appeal presents

no constitutional issues, no issues of first impression, and does not establish new precedent or modify existing precedent. In the opinion of the Court, the case presents a question controlled by settled law or by the clear application of applicable standards of review. We affirm the preliminary injunction, but clarify that no opinion is expressed as to the ultimate merits of the action.

¶9 Affirmed.

/S/ JIM RICE

We concur:

/S/ MIKE McGRATH
/S/ DIRK M. SANDEFUR
/S/ LAURIE McKINNON
/S/ INGRID GUSTAFSON