

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2019-000149-001 DT

10/23/2019

HONORABLE DOUGLAS GERLACH

CLERK OF THE COURT

C. Avena

Deputy

WILLOWCREEK VILLAGE HOMEOWNERS
ASSOCIATION

CHAD M GALLACHER

v.

YAMILE M BONILLA (001)

YAMILE M BONILLA
8850 W GROVERS AVE
PEORIA AZ 85382

ARROWHEAD JUSTICE COURT
JUDGE GERLACH
REMAND DESK-LCA-CCC

MINUTE ENTRY

Lower Court Case No. CC2018092726RC.

Yamile Bonilla has filed notices of appeal that refer to judgments entered against her by the Arrowhead Justice Court in favor of Willowcreek Village Homeowners Association on October 23, 2018, and June 14, 2019. The court has considered all relevant matters of record, including the transcript of the trial held on October 23. For the reasons explained below, the court has decided to affirm the 2018 judgment. The court has also decided to dismiss the appeal of what has been represented as a 2019 judgment.

The 2018 Judgment.

Bonilla's appellate memorandum asserts that the judgment should be set aside solely because the trial judge "did not take into consideration all the facts." Appellate courts, however, do not conduct their own, independent evaluation of the evidence that was presented. *E.g., City of Glendale v. Bradshaw*, 114 Ariz. 236, 238, 560 P.2d 420, 422 (1977); *Castro v. Ballesteros-Suarez*, 222 Ariz. 48, 52, ¶11, 213 P.3d 197, 201 (App. 2009). It is for trial courts and not appellate

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courts to decide what testimony or other evidence is believable and what is not. *In re Estate of Zaritsky*, 198 Ariz. 599, 601, ¶5, 12 P.3d 1203, 1205 (App. 2000) (recognizing that trial courts must determine credibility issues); *Gutierrez v. Gutierrez*, 193 Ariz. 343, 347-48 ¶ 13, 972 P.2d 676, 680-81 (App. 1999) (stating that it is the function of trial courts to determine "witnesses' credibility and the weight to give to conflicting evidence"); *United Cal. Bank v. Prudential Ins. Co. of Am.*, 140 Ariz. 238, 287, 681 P.2d 390, 439 (App. 1983) (stating that "[t]he weight to be given conflicting evidence is for the trier of fact, not a reviewing court").

Appellate courts will affirm the decision of the trial court when it is supported by "substantial evidence." *E.g.*, *Gaveck v. Arizona State Bd. of Podiatry Exam'rs*, 222 Ariz. 433, 436, ¶¶11-12, 215 P.3d 1114, 1117 (App. 2009); *Siegel v. Arizona State Liquor Bd.*, 167 Ariz. 400, 401, 807 P.2d 1136, 1137 (App. 1991). Evidence is substantial if it is sufficient to support a conclusion "even if the record also supports a different conclusion." *JHass Group L.L.C. v. Arizona Dep't of Financial Inst.*, 238 Ariz. 377, 387, ¶37, 360 P.3d 1029, 1039 (App. 2015) (citation omitted); *Eastern Vanguard Forex, Ltd. v. Arizona Corp. Comm'n*, 206 Ariz. 399, 409, ¶35, 79 P.3d 86, 96 (App. 2003) (stating that "[s]ubstantial evidence exists if either of two inconsistent factual conclusions are supported by the record").

Here, the Association presented evidence of the amounts that it claimed were owed by Bonilla. [Trial Tr. (10/23/18) at 30-35] The trial judge was permitted to accept that evidence as true. *Callender v. Transpacific Hotel Corp.*, 179 Ariz. 557, 562, 880 P.2d 1103, 1108 (App. 1993) (recognizing that it is up to the trier of fact to decide whether to accept all, only some, or none of what any witness says). It is not for an appellate court to second-guess that decision. *E.g.*, *Zaritsky*, 198 Ariz. at 601, ¶5, 12 P.3d at 1205; *Gutierrez*, 193 Ariz. at 347-48 ¶13, 972 P.2d at 680-81. As such, there was substantial evidence sufficient to support the 2018 judgment.

The 2019 Matter.

Bonilla filed a Notice of Appeal on June 27, 2019, that refers to a final order or final judgment entered against her in this case on June 14. No such order or judgment appears in the record. Accordingly, dismissal of the appeal is warranted.

IT IS ORDERED:

1. The judgment of the Arrowhead Justice Court in *Willowcreek Village Homeowners Association v. Bonilla* (case no. CC 2018-092726) that was entered on October 23, 2018, is affirmed. The attempt to appeal a judgment purportedly entered by that court in that case on June 14, 2019, is dismissed.

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2. This case is remanded to the Arrowhead Justice Court for any further proceedings that may be necessary.

3. No matters remain pending in connection with this appeal. This is a final order.

/ s / HONORABLE DOUGLAS GERLACH

HONORABLE DOUGLAS GERLACH
JUDGE OF THE SUPERIOR COURT

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