

IN THE SUPREME COURT OF THE STATE OF NEVADA

HOME SELLERS SOLUTIONS, INC., A  
NEVADA CORPORATION; WE BUY  
HOMES, INC., A NEVADA  
CORPORATION; EXECUTIVE  
AGENTS, INC., A NEVADA  
CORPORATION; FREEDOM  
SERVICES, A NEVADA  
CORPORATION; THE MOORE FAMILY  
TRUST; AND WILLIAM PLUMMER,  
Appellants,  
vs.  
JOHN MICHAEL MOORE AND DORA  
CELIA WILLIAMS MOORE,  
Respondents.

No. 43527

FILED

MAR 28 2005

JANETTE M BLOOM  
CLERK OF SUPREME COURT  
BY *J. Richards*  
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a judgment quieting respondents' title in a real estate case. Eighth Judicial District Court, Clark County; Jennifer Togliatti, Judge.

When our preliminary review of the documents before this court revealed a potential jurisdictional defect, we ordered appellants, on January 24, 2005, to show cause why this appeal should not be dismissed. We were concerned that the judgment did not resolve the rights and liabilities of third-party defendant Sonya Dennis. A judgment is not final and appealable unless it adjudicates all the rights and liabilities of all the parties or is properly certified under NRCP 54(b).<sup>1</sup> The uncertainty was largely due to the presence of a default against Dennis, but no default

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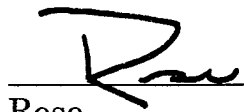
<sup>1</sup>Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000); KDI Sylvan Pools v. Workman, 107 Nev. 340, 810 P.2d 1217 (1991); Rae v. All American Life & Cas. Co., 95 Nev. 920, 605 P.2d 196 (1979).

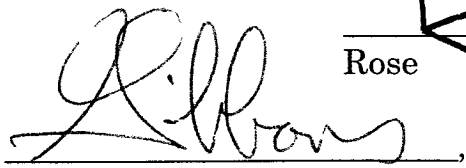
judgment,<sup>2</sup> and appellants' incorrect docketing statement assertion that "the case was dismissed as to Sonya Dennis."

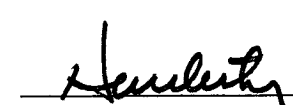
In response to our show cause order, appellants note that the judgment quiets title in respondents' favor against Dennis and appellants. But the judgment does not resolve respondents' third-party claim against Dennis (and appellants) for slander of title. It further appears that respondents' other damages claims were never formally resolved.

Consequently, as this court lacks jurisdiction over this appeal, we

ORDER this appeal DISMISSED.<sup>3</sup>

  
\_\_\_\_\_, J.  
Rose

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Hardesty

<sup>2</sup>See Looper v. Looper, 277 S.E.2d 78, 79 (N.C. Ct. App. 1981) (stating that "[t]he entry of default by the clerk is not a final judgment and it is not appealable" because "[i]t is an interlocutory act looking toward the subsequent entry of a final judgment by default"); Lee v. Sage Creek Refining Co., Inc., 876 P.2d 997, 998 (Wyo. 1994) (stating that "[a]n entry of default is not a final disposition of the controversy" as "[i]t is simply a clerical act performed by the clerk of court which determines liability but not relief").

<sup>3</sup>Because the judgment is not final, we need not reach respondents' argument that jurisdiction is defective because appellants failed to serve Dennis with a copy of the notice of appeal. We note, however, that NRAP 3(a) provides that "[f]ailure of an appellant to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for such action as the Supreme Court deems appropriate, which may include dismissal of the appeal." Finally, nothing in this order prevents appellants from filing a new notice of appeal when the district court enters a final appealable order or judgment in this matter.

cc: Hon. Jennifer Togliatti, District Judge  
William F. Buchanan, Settlement Judge  
William L. McGimsey  
Clark County Legal Services Program, Inc.  
David A. Olshan  
Clark County Clerk