

IN THE SUPREME COURT OF THE STATE OF NEVADA

PARK RANCH, LLC, A NEVADA  
LIMITED LIABILITY COMPANY; AND  
BUILDING THE AMERICAN DREAM  
CORPORATION, A NEVADA  
CORPORATION,

Appellants,

vs.

BEASTAR, LLC, A NEVADA LIMITED  
LIABILITY COMPANY; BEASTAR I,  
LLC, A NEVADA LIMITED LIABILITY  
COMPANY; AND KTML, LLC, A  
NEVADA LIMITED LIABILITY  
COMPANY,

Respondents.

No. 45709

**FILED**

**MAY 10 2006**

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

ORDER DISMISSING APPEAL

This is an appeal from interlocutory district court orders that granted respondents' motions to expunge notices of lis pendens and mechanic's liens. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

When our preliminary review of the docketing statement and the documents submitted to this court pursuant to NRAP 3(e) revealed potential jurisdictional defects, we directed appellants to show cause why we should not dismiss this appeal. Specifically, appellants have attempted to challenge 1) a June 24, 2005 order granting respondents' motion to expunge a lis pendens, 2) a July 1, 2005 order granting respondents' motion to expunge mechanic's liens, and 3) a July 6, 2005 order expunging mechanic's liens. Appellants, in their docketing

statement and timely-filed response to our show cause order, indicated that these orders are appealable under NRAP 3A(b)(3).

As regards the June 24 order, we noted in our order to show cause that the appeal seems untimely under NRAP 4(a) because appellants' notice of appeal was filed more than thirty-three days after service of written notice of the order's entry.<sup>1</sup> In response, appellants concede that they failed to file their notice of appeal within the prescribed time period. This failure, they explain, was "due to an unforeseen and unexpected medical emergency." Nevertheless, the "timely filing of a notice of appeal is jurisdictional. Jurisdictional rules go to the very power of this court to act."<sup>2</sup> Accordingly, this court has no authority to consider an appeal when the notice is filed after the appeal period has expired, and any such appeals must be dismissed. Here, written notice of the June 24, order was served by mail on June 27, 2005, but the notice of appeal was not filed until August 4, 2005, more than thirty-three days after the notice's service. Thus, because appellants' failed to file a timely notice of appeal from the June 24 order, we lack jurisdiction to consider that portion of this appeal.

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<sup>1</sup>See NRAP 4(a) (providing that a notice of appeal must be filed within thirty days of the date that written notice of the appealed order's entry is served); NRAP 26(c) (adding three days to the appeal period if service of the notice of entry is by mail).

<sup>2</sup>Rust v. Clark Cty. School District, 103 Nev. 686, 688, 747 P.2d 1380, 1382 (1987) (citations omitted).

Further, to the extent that appellants purported to challenge the July 1 and July 6 orders under NRAP 3A(b)(3), we noted in our order to show cause that, as appellants' action did not seek to redeem real property from a mortgage or lien, or to partition any property—and the appealed orders do not seem to determine such rights or to direct an accounting, partition, sale, or division, but seem to deny lien rights—it appeared that NRAP 3A(b)(3) does not provide a basis for jurisdiction in this instance. In response, appellants admit that the underlying case does not concern a specific claim to redeem real property from a mortgage or lien, or to partition any property, but they nevertheless argue that “partitioning the real property at issue is but one of the many resolutions to this action” and that by determining that appellants had no ownership interest in the property, the district court, for all intents and purposes, “divided” the property. This argument is unpersuasive.

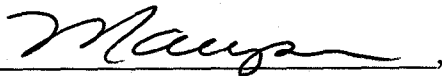
Appellants have admitted that their underlying action apparently sought merely to determine the ownership of real property. Couching their underlying claims in terms of partition and division on appeal fails to alter the character of the underlying action or the nature of the orders appellants attempt to challenge.

Likewise, appellants' argument that the July 1 and July 6 orders expunging mechanics' liens somehow constitute appealable interlocutory orders determining rights to redeem real property from a lien is unavailing. First, as discussed above, the underlying action is not one to redeem real property from a mortgage or lien, or to partition any property. Instead, in the underlying action, appellants sought to determine ownership of real property and to prevent respondents from


encumbering certain parcels of land. Second, notwithstanding appellants' argument to the contrary, the district court's orders did not determine rights to redeem on a lien (e.g., as in a foreclosure action) and did not direct an accounting, but instead expunged appellants' liens. Therefore, the July 1 and 6 orders are not appealable under NRAP 3A(b)(3), and we are without jurisdiction to consider this appeal.

Accordingly, we

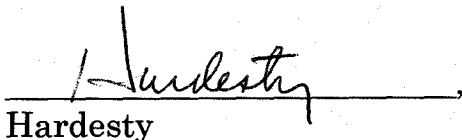
ORDER this appeal DISMISSED.

 J.

Maupin

 J.

Gibbons

 J.

Hardesty

cc: Hon. Valerie Adair, District Judge  
William F. Buchanan, Settlement Judge  
Bourke & Nold  
Pico, Escobar & Rosenberger, Ltd.  
Clark County Clerk  
Norma Jean Silverman, Court Reporter  
Julie Lever, Court Reporter