

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. 46600

**FILED**

JUN 19 2006

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. B. [Signature]*  
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order directing an interlocutory appeal to be expunged unless appellants posted security or bond in the amount of \$5,000,000, and a district court order that expunged the interlocutory appeal after appellants failed to timely post such security or bond. Eight 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, it appeared that appellants' appeal was untimely insofar as it appealed from the district court order filed on November 17, 2005, which directed the interlocutory

appeal to be expunged unless security or bond was posted.<sup>1</sup> Further, it appeared that both the November order and the order filed on December 5, 2005, which expunged the interlocutory appeal, were not substantively appealable orders. Specifically, the orders were not final judgments,<sup>2</sup> it did not appear that appellants sought to redeem real property from a mortgage or lien or to partition real property, and the orders did not appear to determine rights to redeem property or to direct an accounting, partition, sale, or division.<sup>3</sup>

In response to our show cause order, appellants first state that they have not appealed the November order and that this court has “simply erred in it [sic] understanding of which order is being appealed from.” Appellants further acknowledge that if they were appealing the November order “such a filing would be an impermissible untimely filing and should be dismissed.”

We note that while appellants’ notice of appeal specifically designates the order filed on December 5, 2005, it also states that appeal is taken from “the Interlocutory Orders extinguishing the Notice of Interlocutory Appeal and Property Transfer Agreement.” (Emphasis added.) Because appellants indicated that they were appealing “Orders,” the district court clerk certified and transmitted copies of both the November and December orders to this court as they were both

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<sup>1</sup>See NRAP 4(a)(1); NRAP 26(c).

<sup>2</sup>See NRAP 3A(b)(1); Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000).

<sup>3</sup>NRAP 3A(b)(3).

interlocutory orders in the underlying proceedings.<sup>4</sup> We remind appellants' counsel of the obligation to specifically designate the order(s) being appealed.<sup>5</sup> Nevertheless, as appellants explain that they are not appealing the November order and concede that this court would have no jurisdiction over such an appeal, we conclude that no further action is required from this court with respect to an appeal from the November 17, 2005, order.

As for the appeal from the December 5, 2005, order that expunged the interlocutory appeal, appellants admit that the underlying case does not concern a specific claim to redeem property from a mortgage or lien, or to partition any property. Nevertheless, appellants 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 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 order appellants attempt to challenge. The December 5, 2005, order is not

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<sup>4</sup>See NRAP 3(e).

<sup>5</sup>See NRAP 3(c).

appealable under NRAP 3A(b)(3). We are therefore without jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.

Douglas, J.  
Douglas

Becker, J.  
Becker

Parraguirre, J.  
Parraguirre

cc: Hon. Valerie Adair, District Judge  
Bourke & Nold  
Pico, Escobar & Rosenberger, Ltd.  
Clark County Clerk