

IN THE SUPREME COURT OF THE STATE OF NEVADA

HARMONY HOOPER, AN
INDIVIDUAL,
Appellant,
vs.
LINDA CATERINE AND ANTHONY
CATERINE,
Respondents.

No. 49836

FILED

OCT 08 2009

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DISMISSING APPEAL AS MOOT

This is a proper person appeal from a district court order granting a motion to dismiss. Eighth Judicial District Court, Clark County; Jessie Elizabeth Walsh, Judge.

Appellant instituted a district court action seeking to rescind the parties' contract, under which appellant transferred her Clark County, Nevada, residence to respondents in exchange for respondents' interest in two Tulsa, Oklahoma, nightclubs. The challenged district court order granted respondents' motion to dismiss appellant's action under principles of comity, since respondents had instituted in the Oklahoma district court an action to enforce the parties' contract, in which action appellant asserted counterclaims seeking the contract's rescission. See Walker v. Walker, 84 Nev. 118, 119-20, 437 P.2d 91, 92 (1968) (recognizing that a court, as a matter of comity, may enjoin proceedings before it until the conclusion of an essentially parallel, earlier filed action pending in the court of a different sovereignty); Brunzell Constr. v. Harrah's Club, 81 Nev. 414, 423-24, 404 P.2d 902, 907 (1965) (same), superseded by statute on other grounds as recognized in Casino Operations, Inc. v. Graham, 86 Nev. 764, 476 P.2d 953 (1970).

Appellant acknowledges in her civil proper person appeal statement, as do respondents in their civil proper person response statement, that appellant ultimately prevailed in the Oklahoma action. Further, we take judicial notice of that fact that appellant apparently successfully domesticated the Oklahoma judgment and correspondingly obtained a district court order directing that the Clark County, Nevada, residence be transferred back to appellant, as evidenced from documents filed in respondents' appeal from that order in Caterine v. Hooper, Docket No. 52065. See NRS 47.130; NRS 47.150(1); Mack v. Estate of Mack, 125 Nev. ___, ___, 206 P.3d 98, 106 (2009).

Given that the issues raised in appellant's Nevada district court action were adjudicated in the Oklahoma district court and that she ultimately obtained the relief that she sought, this appeal is moot. See University Sys. v. Nevadans for Sound Gov't, 120 Nev. 712, 720, 100 P.3d 179, 186 (2004) (recognizing that "[t]he duty of every judicial tribunal is to decide actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions or abstract propositions, or to declare principles of law which cannot affect the matter in issue before it" (quoting NCAA v. University of Nevada, 97 Nev. 56, 57, 624 P.2d 10, 10 (1981))).

Accordingly, we

ORDER this appeal DISMISSED.

Cherry, J.
Cherry

Douglas, J.
Douglas

Gibbons, J.
Gibbons

cc: Hon. Jessie Elizabeth Walsh, District Judge
William F. Buchanan, Settlement Judge
Harmony Hooper
Anthony Caterine
Linda Caterine
Eighth District Court Clerk