

IN THE SUPREME COURT OF THE STATE OF NEVADA

JESS ARNDELL CONSTRUCTION CO.,
INC., A NEVADA CORPORATION,
Appellant,
vs.
MOGUL 41 LOTS, LLC, A NEVADA
LIMITED LIABILITY COMPANY,
Respondent.

No. 63029

FILED

OCT 29 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *Angela*
DEPUTY CLERK


ORDER DISMISSING APPEAL

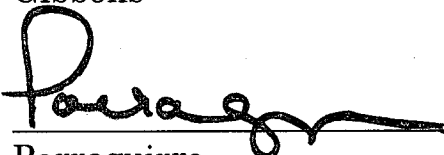
This is an appeal from a district court order dismissing appellant's mechanic's lien counterclaims against respondent under NRCP 41(e). Second Judicial District Court, Washoe County; Brent T. Adams, Judge.

When our preliminary review of the docketing statement and the NRAP 3(g) documents revealed a potential jurisdictional defect, we ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. Specifically, it appeared that the district court had not resolved (1) respondent's construction defect claims against appellant; and (2) appellant's third-party claims against Glen Highfield d/b/a Highfield Construction, such that no final, written, and appealable judgment adjudicating all of the rights and liabilities of all of the parties existed. NRAP 3A(b)(1); *Lee v. GNLV Corp.*, 116 Nev. 424, 996 P.2d 416 (2000). *See Valley Bank of Nev. v. Ginsburg*, 110 Nev. 440, 874 P.2d 729 (1994) (noting that mere settlement, without an order formally dismissing the claims, does not finally end the action); *KDI Sylvan Pools v. Workman*, 107 Nev. 340, 342-43, 810 P.2d 1217, 1219 (1991) (recognizing that formal resolution generally is required for appellate jurisdictional purposes).

In a timely response, appellant submitted a copy of an NRCP 41(a) voluntary dismissal of its third-party claims against Glen Highfield. But as for respondent's construction defect claims against appellant, appellant argues that even though they have not been resolved, the order dismissing its counterclaims is final and appealable because it can be given preclusive effect. An order or judgment is final and appealable only when it resolves "the rights and liabilities of all parties and dispose[s] of all issues presented in the case." *Lee*, 116 Nev. at 427-28, 996 P.2d at 418. Here, as respondent's claims against appellant remain pending, no final and appealable order or judgment has been entered. We therefore lack jurisdiction, and we

ORDER this appeal DISMISSED.


_____, J.
Gibbons


_____, J.
Parraguirre


_____, J.
Douglas

cc: Hon. Brent T. Adams, District Judge
Margo Piscevich, Settlement Judge
Charles R. Kozak
Walsh, Baker & Rosevear, P.C.
Early Sullivan Wright Gizer & McRae, LLP
Washoe District Court Clerk