

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

HERITAGE LAUGHLIN  
HOMEOWNERS ASSOCIATION, A  
NEVADA NON-PROFIT  
ORGANIZATION,  
Appellant,  
vs.  
KELLY HUGH NASH, A PERSONAL  
REPRESENTATIVE OF THE ESTATE  
OF JAMES BUDJAC,  
Respondent.

No. 69475

**FILED**

DEC 21 2016

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK U

*ORDER OF AFFIRMANCE*

This is an appeal from a district court order dismissing a complaint to enforce a judgment. Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

Appellant, a homeowner's association, filed a creditor's claim with respondent against the estate of James Budjac, a former resident of appellant's community. Respondent denied the claim, and appellant filed a district court complaint, asserting that it was entitled to relief based on a 2014 judgment. The district court dismissed the complaint on the ground that the court that entered the 2014 judgment lacked jurisdiction insofar as the case in which the judgment was entered had previously been dismissed and the dismissal had never been vacated or set aside under the Nevada Rules of Civil Procedure. This appeal followed.

Appellant argues the district court had jurisdiction to enter the 2014 judgment because the prior dismissal in that case was without prejudice. Regardless of whether it was with or without prejudice, the

dismissal was a final judgment because it resolved all of the issues pending in that action. *See Lee v. GNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000) (“[A] final judgment is one that disposes of all the issues presented in the case, and leaves nothing for the future consideration of the court, except for post-judgment issues such as attorney’s fees and costs.”). And “once a final judgment is entered, the district court lacks jurisdiction to reopen it, absent a proper and timely motion under the Nevada Rules of Civil Procedure.” *SFPP, L.P. v. Second Judicial Dist. Court*, 123 Nev. 608, 612, 173 P.3d 715, 717 (2007); *see Greene v. Eighth Judicial Dist. Court*, 115 Nev. 391, 396, 990 P.2d 184, 187 (1999) (concluding that a court “lacks jurisdiction to allow amendment of a complaint, once final judgment is entered, unless that judgment is first set aside or vacated pursuant to the Nevada Rules of Civil Procedure”). As the final judgment in the prior action was not set aside under the rules of civil procedure, the district court in this case correctly determined that the prior court lacked jurisdiction to reopen that case and that the judgment entered by the prior court was therefore void. *See State Indus. Ins. Sys. v. Sleeper*, 100 Nev. 267, 269, 679 P.2d 1273, 1274 (1984) (“There can be no dispute that lack of subject matter jurisdiction renders a judgment void.”).


Moreover, questions of subject matter jurisdiction are never waived, *see Mainor v. Nault*, 120 Nev. 750, 761 n.9, 101 P.3d 308, 315 n.9 (2004) (“Lack of subject matter jurisdiction can be raised at any time during the proceedings and is not waivable.”), and “[p]arties may not confer jurisdiction upon the court by their consent when jurisdiction does not otherwise exist.” *Vaile v. Eighth Judicial Dist. Court*, 118 Nev. 262, 275, 44 P.3d 506, 515 (2002). Thus, appellant’s arguments that Budjac

consented to the court's jurisdiction or otherwise waived any jurisdictional defects are unavailing.<sup>1</sup>

Accordingly, we

ORDER the judgment of the district court AFFIRMED.

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

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Silver

cc: Hon. Douglas Smith, District Judge  
Eleissa C. Lavelle, Settlement Judge  
Law Offices of Michael F. Bohn, Ltd.  
Robert W. Lueck, Esq.  
Eighth District Court Clerk

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<sup>1</sup>In its order, the district court also found that the liquidated damages on which the judgment was based constituted an unenforceable penalty. Appellant challenges that finding but does not identify any basis for awarding the liquidated damages other than the 2014 judgment, and the underlying complaint only identified the 2014 judgment as a basis for seeking relief. Thus, in light of our conclusion that the court lacked jurisdiction to enter the 2014 judgment, we need not reach appellant's arguments with regard to whether the liquidated damages were actually an unenforceable penalty.