IN THE SUPREME COURT OF THE STATE OF NEVADA

ANDREA MORAN,

Appellant,

vs.

BONNEVILLE SQUARE ASSOCIATES, A NEVADA LIMITED PARTNERSHIP; AMTECH ELEVATOR SERVICES, A FOREIGN CORPORATION; AND B. MAX, INC., D/B/A MAXTON MANUFACTURING, A FOREIGN CORPORATION,

Respondents.

No. 36433

FILED

JUN 13 2001

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

ORDER DISMISSING APPEAL

This is an appeal from a judgment on the jury verdict entered on June 8, 2000, and from an order denying appellant's motion for additur entered on June 20, 2000. Our preliminary review of the documents submitted to this court pursuant to NRAP 3(e), along with the docketing statement, revealed potential jurisdictional defects. Specifically, we were unable to discern whether this court had jurisdiction to consider the instant appeal because certain documents were not transmitted to this court. In particular, we had not been provided with a file-marked copy of either appellant's motion for new trial filed on June 26, 2000, or a file-marked copy of the written order denying appellant's motion for new trial.

Furthermore, it appeared that the district court had not entered a final written judgment adjudicating all the rights and liabilities of all the parties.[1] The following claims appeared not to have been resolved below by way of an

[1]See Rae v. All American Life & Cas. Co., 95 Nev. 920, 605 P.2d 196 (1979).

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entered, written order: (1) B. Max, Inc.'s cross-claim(s) against Bonneville Square Associates; and (2) B. Max, Inc.'s cross-claim(s) against Amtech Elevator Services. We further noted that, due to appellant's incomplete response to docketing statement request 22, we were unable to readily discern whether additional cross-claims had been asserted between Bonneville Square Associates, Amtech Elevator Services, and B. Max, Inc.

Accordingly, by order entered March 29, 2001, Andrea Moran was afforded thirty (30) days from the date of the order within which to (1) file an amended docketing statement which fully complied with NRAP 14, and (2) show cause why her appeal should not be dismissed for lack of jurisdiction. On May 2, 2001, Moran filed an amended docketing statement and a response to our order to show cause.

Moran's response contends that B. Max, Inc.'s cross-claims against the other two defendants below, Bonneville Square Associates and Amtech Elevator Services, were abandoned during trial. Moran's response concedes that no party to the underlying lawsuit prepared and submitted to the district court for signature a formal written order that reflects that B. Max, Inc. abandoned its cross-claims.

NRAP 3A(b)(1) expressly states that an appeal may be taken from "a final judgment." In Lee v. GNLV Corp., this court clarified "that 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."[2]

[2]116 Nev. 424, 426, 996 P.2d 416, 417 (2000).

A premature notice of appeal filed before entry of a final, written judgment is of no effect.[3] In Rust v. Clark County School District, this court expressly stated that a district court's oral pronouncement from the bench, a minute order, and even an unfiled written order are ineffective for any purpose.[4] Similarly, this court does not consider a party's manifest intent to abandon its cross-claims, unless that intent has been reduced to writing and filed in accordance with NRCP 41(c).

Although we expressly cited the opinion in our March 29, 2001 order to show cause, it does not appear that Moran fully appreciates the significance of this court's holding in KDI Sylvan Pools v. Workman[5] within the context of this appeal. In KDI Sylvan Pools, this court held that the fact that a litigant was not inclined to pursue his counterclaim did not render the counterclaim moot or operate as a formal disposition of the claim.[6] This court went on to conclude that the order appealed from was not a final, appealable judgment pursuant to NRAP 3A(b)(1), because it did not finally resolve the entire action pending below, and the appeal was therefore dismissed for lack of jurisdiction.[7] The fact that KDI Sylvan Pools

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[3]See NRAP 4(a)(1); Rust v. Clark Cty. School District, 103 Nev. 686, 747 P.2d 1380 (1987).

[4]103 Nev. at 689, 747 P.2d at 1382; see also, Musso v. Triplett, 78 Nev. 355, 357, 372 P.2d 687, 689 (1962) (holding that an attempted appeal from a minute order granting summary judgment was not proper and conferred no jurisdiction on the Nevada Supreme Court).

[5]107 Nev. 340, 810 P.2d 1217 (1991).

[6]Id. at 342, 810 P.2d at 1219.

[7]Id. at 343, 810 P.2d at 1219.

involved a counterclaim, whereas this appeal involves cross-claims, is a distinction without a difference.

Thus, because the counter-claims remain pending below, the district court has not yet entered a final written judgment adjudicating all the rights and liabilities of all parties. Accordingly, we lack jurisdiction to entertain this appeal, and we

ORDER this appeal DISMISSED.

Young, J.
Young

Leavitt, J.
Leavitt

Becker, J.
Becker

cc: Hon. Valorie J. Vega, District Judge
William C. Turner, Settlement Judge
Kirk T. Kennedy
Pico & Mitchell
Law Offices of Robert A. Weaver
Rawlings Olson Cannon Gormley & Desruisseaux
Clark County Clerk