

IN THE SUPREME COURT OF THE STATE OF NEVADA

SPANISH HEIGHTS ACQUISITION
COMPANY, LLC, A NEVADA LIMITED
LIABILITY COMPANY; AND SJC
VENTURES HOLDING COMPANY,
LLC, D/B/A SJC VENTURES, LLC, A
DELAWARE LIMITED LIABILITY
COMPANY,

Appellants,

vs.

CBC PARTNERS I, LLC, A FOREIGN
LIMITED LIABILITY COMPANY; CBC
PARTNERS, LLC, A FOREIGN
LIMITED LIABILITY COMPANY; 5148
SPANISH HEIGHTS, LLC, A NEVADA
LIMITED LIABILITY COMPANY; AND
DACIA LLC, A FOREIGN LIMITED
LIABILITY COMPANY,

Respondents.

No. 82868

FILED

JUN 06 2022

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

ORDER DISMISSING APPEAL

This is an appeal from a district court order resolving a motion for a preliminary injunction in an action for declaratory relief and breach of contract relating to real property. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

In the underlying action, appellants filed a motion for a preliminary injunction seeking to prohibit respondents from proceeding on any future notice of default and notice of breach and election to sell under deed of trust, and from engaging in foreclosure activity and/or attempting to foreclose on the subject property. The parties subsequently entered into a stipulation agreeing that the district court would resolve five legal issues at the "trial" on the preliminary injunction motion. After the district court

entered the challenged order on the preliminary injunction motion and the five legal issues, the parties entered into a settlement agreement wherein appellants agreed that if payments were not made in accordance with the terms of the settlement, respondents could resume their foreclosure of the property. Payments were not made, and the property was foreclosed upon.

Respondents now move to dismiss this appeal as moot. They contend there is no longer a justiciable controversy regarding the preliminary injunction order because of the settlement and subsequent foreclosure. Appellants do not dispute that the parties entered into a settlement, the settlement was not successful, and the subject property was foreclosed. They note that there has been no dismissal of the underlying action and a trial is upcoming on the remaining claims. Appellants assert that respondents seek to have the challenged order submitted to the jury and the jury instructed to follow the findings of fact and conclusions of law therein. Therefore, appellants assert, there is a live justiciable controversy as the issues raised in this appeal affect the issues remaining in the district court.

This court agrees that appellants' appeal from the order resolving its preliminary injunction motion has been rendered moot by the foreclosure. *See Personhood Nev. v. Bristol*, 126 Nev. 599, 602, 245 P.3d 572, 574 (2010) (a case presenting a live controversy at its beginning may be rendered moot by subsequent events). There is no effective relief this court can grant appellants with respect to the foreclosure. *See id.* Accordingly, the motion is granted and this appeal is dismissed.¹ To the extent appellants wish to challenge any findings of fact and conclusions of

¹Given this dismissal, this court takes no action on respondents' motion for an extension of time to file the answering brief.

law made within the order. those findings of fact and conclusion of law are not independently appealable. *See Ford v. Showboat Operating Co.*, 110 Nev. 752, 756, 877 P.2d 546, 549 (1994). But appellants may challenge them in the context of any appeal from the final judgment in the underlying matter, if appellants are aggrieved by that judgment. *See* NRAP 3A(b)(1).

It is so ORDERED.

Hardesty, J.
Hardesty

Stiglich, J.
Stiglich

Herndon, J.
Herndon

cc: Chief Judge, Eighth Judicial District Court
Eighth Judicial District Court, Department 11
Charles K. Hauser, Settlement Judge
Maier Gutierrez & Associates
Mushkin & Coppedge
Eighth District Court Clerk