

IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF LAS VEGAS, POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA,
Appellant,
vs.
180 LAND COMPANY, LLC, A NEVADA
LIMITED LIABILITY COMPANY,
Respondent.

No. 88103

FILED

SEP 30 2024

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: *[Signature]*
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order granting summary judgment in a takings action. Eighth Judicial District Court, Clark County; Anna C. Albertson, Judge.

Respondent has filed a motion to dismiss or strike this appeal without prejudice, asserting that this court lacks jurisdiction over the appeal as it has been filed prematurely and that the underlying order is not a final, appealable order. Appellant has filed a response, and respondent has filed a reply. For the following reasons, we agree.

The appellate court lacks jurisdiction to consider a premature notice of appeal. NRAP 4(a)(6). An appeal may only be taken from a final judgment, NRAP 3(A)(b)(1), unless otherwise permitted by statute or court rule. "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." *Lee v. GNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000).

Here, respondent sought just compensation from appellant, asserting that appellant's preclusion of residential development on property respondent owned constituted a taking. The district court agreed, and the

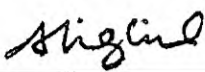
underlying order granted summary judgment to respondent and determined the fair market value of the property. The district court, however, did not address whether prejudgment interest was to be awarded or excluded from the award. Instead, the district court merely noted in its order that “the [c]ourt will hear any relevant post-trial motions following entry of these findings of fact and conclusions of law and will, thereafter, enter a judgment.” Following entry of the underlying order, respondent filed a motion to determine interest, and that motion appears to remain pending in the district court. The parties acknowledge they do not agree on the propriety of prejudgment interest in this case.

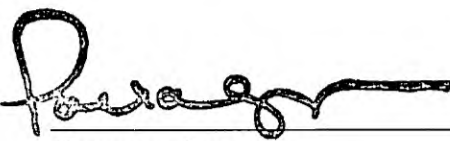
“Just compensation shall include, but is not limited to, compounded interest and all reasonable costs and expenses actually incurred.” Nev. Const. art. 1, § 22(4). Here, the district court did not expressly address interest in its order granting summary judgment and determining the fair market value of the property as of July 31, 2023, and thus left this contested issue open for future consideration. Some jurisdictions, however, have concluded that where the amount or manner of calculation of prejudgment interest is contested or entitlement is disputed, the trial court may enter a final judgment that reserves jurisdiction to award prejudgment interest. See *Westgate Miami Beach, Ltd. v. Newport Operating Corp.*, 55 So. 3d 567 (Fla. 2010). Federal courts, however, have concluded that “[p]rejudgment interest is a portion of the damages and thus an integral part of the merits decision,” *Dodge v. Cotter Corp.*, 328 F.3d 1212, 1221 (10th Cir. 2003), and that the failure to determine the amount of prejudgment interest results in a claim not having been fully adjudicated, see *Halo Electronics, Inc. v. Pulse Electronics, Inc.*, 857 F.3d 1347, 1351-52 (Fed. Cir. 2017) (“[T]here is no final decision because the district court has

not ‘determine[d], or specif[ied] the means for determining the amount’ of prejudgment interest.” (quoting *United States v. F & M Schaefer Brewing Co.*, 356 U.S. 227, 233-34 (1958)); see also *Dieser v. Cont’l Cas. Co.*, 440 F.3d 920, 922-24 (8th Cir. 2006); *SEC v. Carillo*, 325 F.3d 1268, 1271-74 (11th Cir. 2003) (“[I]f the judgment amount, the prejudgment interest rate, or the date from which prejudgment interest accrues is unclear, the calculation of prejudgment interest is no longer a ministerial act and the court’s order is not final.”); *Com. Union Ins. Co. v. Seven Provinces Ins. Co.*, 217 F.3d 33, 36-37 (1st Cir. 2003); *In re Jack Raley Constr., Inc.*, 17 F.3d 291, 294-95 (9th Cir. 1994). Given the absence of any reference to prejudgment interest in the underlying order and the district court order indicating that a judgment was forthcoming, we decline to deem 180 Land Co.’s takings claim impliedly resolved. Therefore, the underlying order, without resolution of the contested prejudgment interest issue or a determination of finality under NRCP 54(b), is not a final, appealable order. Because we lack jurisdiction to consider this appeal, we grant respondent’s motion to the following extent. This appeal is dismissed.

It is so ORDERED.


_____, C.J.
Cadish


_____, J.
Stiglich


_____, J.
Parraguirre

cc: Hon. Anna C. Albertson, Judge
McDonald Carano LLP/Las Vegas
Shute, Mihaly & Weinberger, LLP
Leonard Law, PC
Las Vegas City Attorney
Law Offices of Kermitt L. Waters
Claggett & Sykes Law Firm
Eighth District Court Clerk