

IN THE SUPREME COURT OF THE STATE OF NEVADA

NGA #2 LIMITED LIABILITY
COMPANY,

Appellant/Cross-
Respondent,

vs.

ROBERT O. RAINS, JR., TRUSTEE OF
THE RAINS 1992 TRUST DATED
DECEMBER 14, 1992; AND R-2
DEVELOPMENT COMPANY, A
LIMITED LIABILITY COMPANY,

Respondents/Cross-
Appellants.

No. 38815

FILED

OCT 08 2002

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

NGA #2 LIMITED LIABILITY
COMPANY,

Appellant/Cross-
Respondent,

vs.

ROBERT O. RAINS, JR., TRUSTEE OF
THE RAINS 1992 TRUST DATED
DECEMBER 14, 1992; AND R-2
DEVELOPMENT COMPANY, A
LIMITED LIABILITY COMPANY,

Respondents/Cross-
Appellants.

No. 39088

NGA #2 LIMITED LIABILITY
COMPANY,

Appellant,

vs.

ROBERT O. RAINS, JR., TRUSTEE OF
THE RAINS 1992 TRUST, DATED
DECEMBER 14, 1992 AND R-2
DEVELOPMENT COMPANY, A
LIMITED LIABILITY COMPANY,

Respondents.

No. 39345

NGA #2 LIMITED LIABILITY
COMPANY,

Appellant,

vs.

ROBERT O. RAINS, JR., TRUSTEE OF
THE RAINS 1992 TRUST, DATED
DECEMBER 14, 1992 AND R-2
DEVELOPMENT COMPANY, A
LIMITED LIABILITY COMPANY,
Respondents.

No. 39645

ORDER DISMISSING APPEAL IN DOCKET NO. 38815

On November 19, 2001, NGA #2 Limited Liability Company (appellant) filed a notice of appeal with the district court. On December 7, 2001, Robert O. Rains, Jr., Trustee of the Rains 1992 Trust Dated December 14, 1992, and R-2 Development Company, A Limited Liability Company (respondents), filed a notice of cross-appeal with the district court. That appeal and cross-appeal were docketed in this court as Docket No. 38815.

On December 3, 2001, appellant filed a timely tolling motion in the district court. An order resolving the tolling motion was filed in the district court on December 31, 2001. On January 14, 2002, and January 28, 2002, respectively, appellant filed a timely second notice of appeal and respondents filed a timely second notice of cross-appeal. Because these notices of appeal were not identified as amendments to the notices of appeal in Docket No. 38815, they were docketed in this court as Docket No. 39088. See NRAP 4(a)(4).

Having reviewed the notices of appeal, it appears that the parties are appealing the same orders in both Docket No. 38815 and

Docket No. 39088. Because the appeals in Docket No. 39088 cured any potential jurisdictional defect in the appeals filed in Docket No. 38815¹ and because the notices of appeal filed in Docket No. 38815 and Docket No. 39088 identify the same orders on appeal, we conclude the appeals in Docket No. 39088 render the appeals in Docket No. 38815 superfluous. Accordingly, we order the appeals in Docket No. 38815 dismissed. The clerk of this court shall transfer the transcripts filed on August 5, 2002, in Docket No. 38815 to Docket No. 39088. Further, we vacate our order entered on October 1, 2002, insofar as it directed appellant to comply with NRAP 9 in Docket No. 38815.

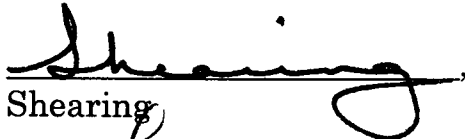
On April 11, 2002, respondents filed a motion to dismiss the appeal in Docket No. 39345. On April 18, 2002, appellant filed an opposition to the motion. On April 29, 2002, respondents filed a motion to file a reply to the opposition and attached a copy of the reply as Exhibit A.² On May 6, 2002, appellant filed an opposition to the motion to file a reply. Cause appearing, we grant the motion to file a reply. NRAP 27(a). The clerk of this court shall detach Exhibit A from the motion to file a reply and file the exhibit. We defer ruling on the motion to dismiss at this time.

¹See NRAP 4(a)(2) (a notice of appeal filed before a written order resolving any timely-filed tolling motion is ineffective).

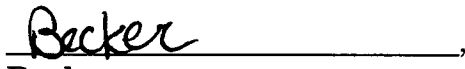
²We remind respondents that a motion for permission to file a document should not include the proposed document as an attachment. In the future, such proposed document may be submitted under separate cover.

Briefing of these consolidated appeals shall be stayed pending resolution of the motion to dismiss.

It is so ORDERED.


_____, J.
Shearing


_____, J.
Leavitt


_____, J.
Becker

cc: Hon. Allan R. Earl, District Judge
John Peter Lee Ltd.
Marquis & Aurbach
Clark County Clerk