

IN THE SUPREME COURT OF THE STATE OF NEVADA

DESIGN CENTER WEST, A NEVADA
CORPORATION,
Appellant,
vs.
DEBRA SIEFERT,
Respondent.

No. 40314

FILED

FEB 11 2004

ORDER DISMISSING APPEAL

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

This is an appeal from a judgment against appellant in a contract dispute. When our preliminary review of the docketing statement and the documents submitted to this court pursuant to NRAP 3(e) revealed a potential jurisdictional defect, we directed appellant to show cause why this appeal should not be dismissed for lack of jurisdiction.

It appeared that the judgment against appellant was not a final, appealable judgment. Specifically, respondent/plaintiff Debra Siefert filed a complaint against appellant/defendant Design Center West and defendant Kriston Manz to recover damages for defective furniture she purchased from Design Center. Siefert asserted claims against Design Center for breach of contract, fraud, civil conspiracy, breach of the covenant of good faith and fair dealing, and breach of the implied warranty of merchantability. Design Center then filed a cross-claim against Manz and a third-party claim against PK Robles for indemnity. Manz filed cross-claims for breach of contract, negligence, and others against Design Center, and a third-party claim for breach of the implied warranty of merchantability against PK Robles.

After a bench trial, the district court entered a judgment for Siefert and against Design Center for \$18,576.73 plus costs. The district

court determined that Design Center breached the implied warranty of merchantability, but dismissed Siefert's fraud and civil conspiracy claims. The judgment did not, however, expressly resolve Siefert's claims for breach of contract and breach of the covenant of good faith and fair dealing against Design Center or Manz.¹ Moreover, Design Center indicated in the docketing statement that the cross-claims and third-party claims between Design Center, Manz, and PK Robles had not been resolved and were pending below.

Thus, it appeared that the district court had not entered a final written judgment adjudicating all the rights and liabilities of all the parties, and the district court did not certify its judgment as final pursuant to NRCP 54(b).² Moreover, the judgment did not appear amenable to NRCP 54(b) certification because the claims asserted in the action are so closely related that this court would necessarily decide important issues pending below in order to decide the issues appealed.³ Reviewing the matter at this stage of the proceedings could result in piecemeal litigation, defeating the purpose of NRCP 54(b).⁴

¹While the district court determined that Manz was protected by the corporate shield of Interior One, Inc., which Siefert did not name as a party, the court did not formally resolve the breach of contract and breach of the covenant of good faith and fair dealing claims asserted against Manz.


²Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000); KDI Sylvan Pools v. Workman, 107 Nev. 340, 810 P.2d 1217 (1991); Rae v. All American Life & Cas. Co., 95 Nev. 920, 605 P.2d 196 (1979).


³Mallin v. Farmers Insurance Exchange, 106 Nev. 606, 797 P.2d 978 (1990); Hallicrafters Co. v. Moore, 102 Nev. 526, 728 P.2d 441 (1986).

⁴See Hallicrafters, 102 Nev. 526, 728 P.2d 441.

Accordingly, on November 26, 2003, we directed Design Center to show cause within thirty days why this appeal should not be dismissed for lack of jurisdiction. We cautioned Design Center that failure to demonstrate that this court has jurisdiction might result in the dismissal of this appeal. To date, appellant has not filed a response to our show cause order. Accordingly, we dismiss this appeal.

It is so ORDERED.


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

cc: Allan R. Earl, District Judge
Kathleen M. Paustian, Settlement Judge
Frank J. Toti
Gage & Gage, LLP
Paula Walsh, Court Reporter
Clark County Clerk