

**NOT DESIGNATED FOR PUBLICATION**

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2018 CA 0910

RODNEY DENOUX

VERSUS

DONNA GRODNER

**Judgment rendered December 21, 2018.**

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Appealed from the  
21<sup>st</sup> Judicial District Court  
In and for the Parish of Livingston, State of Louisiana  
Trial Court No. 157922  
Honorable Brenda Bedsole Ricks, Judge

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**BEFORE: PETTIGREW, WELCH, AND CHUTZ, JJ.**

**PETTIGREW, J.**

In this suit involving a property dispute between neighbors, the plaintiff appeals a summary judgment dismissing his petition and awarding sanctions under the defendant's reconventional demand. For the reasons set forth herein, we dismiss the appeal.

**FACTS AND PROCEDURAL HISTORY**

On December 27, 2017, Rodney Denoux filed a Petition for Possessory Action, Injunctive Relief and Damages against Donna Grodner, the owner of the adjacent property. Denoux alleged that in January 2017, Grodner built a covered parking structure that encroached on Denoux's property by 3.7 feet and created a disturbance in fact to his possession of his property. Denoux alleged that he requested that Grodner remove the covered parking structure, but she refused and "has taken no remedial action to cure the encroachments."

Grodner answered the petition, admitting that her covered parking structure encroached on Denoux's property, but denying that Denoux had ever asked her to move the covered parking structure. Additionally, Grodner alleged: she discovered survey stakes showing that her covered parking structure encroached on Denoux's property on December 16, 2017, and immediately contacted Denoux and asked for sixty days to verify the survey; Denoux told her to talk to his attorney, but would not give Grodner his attorney's name; she notified Denoux on December 22, 2017, that the structure would be moved in January 2018 and asked him to call her; and she notified Denoux on December 24, 2017, three days before the petition was filed in this matter, that the covered parking structure was being moved off of his property on that date. Grodner also filed a reconventional demand<sup>1</sup> for attorney fees and costs as sanctions under La. C.C.P. art. 863, alleging that Denoux made representations of fact in his petition which he knew or should have known were false.

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<sup>1</sup> Grodner's request for sanctions under Article 863 was mislabeled as a "Counter Claim," although it was actually a reconventional demand under La. C.C.P. art. 1061. However, since the Code of Civil Procedure requires pleadings to be construed so as to do substantial justice, the nature of a pleading must be determined by its substance, not its caption. Where, as here, miscaptioning of a pleading does not prejudice the other party, courts may overlook the miscaptioning. **Roddy v. Crawford**, 618 So.2d 1229, 1236 (La.App. 3 Cir. 1993).

On March 14, 2018, Grodner filed a motion for summary judgment on Denoux's petition and on her reconventional demand for sanctions. A hearing was held on April 23, 2018, after which the court granted the motion for summary judgment and also ordered that "[c]ourt cost will be paid."

The judgment signed by the trial court on May 14, 2018, states:

On April 23, 2018, the *Motion for Summary Judgment* filed by Donna Grodner was heard. Present in open court were Ms. Donna Grodner for Ms. Donna Grodner and Mr. Andre Gauthier for Mr. Rodney DeNoux. Considering the pleadings, evidence, and argument, the motion is Granted.

Specifically, IT IS ORDERED that the *Petition for Possessory Action, Injunctive Relief and Damages* is dismissed with prejudice.

IT IS FURTHER ORDERED that the counter claim under La. Art. 863, is GRANTED. Mr. DeNoux is here casts [sic] with all costs of this proceeding.

Denoux appealed the May 14, 2018 judgment, arguing that the trial court erred, both in granting summary judgment dismissing his claims with prejudice and in issuing sanctions under La. C.C.P. art. 863.

### DISCUSSION

Appellate courts have the duty to determine sua sponte whether their subject matter jurisdiction exists, even when the parties do not raise the issue. **Motorola, Inc. v. Associated Indemnity Corporation**, 02-1351, p. 5 (La.App. 1 Cir. 10/22/03), 867 So.2d 723, 725 (en banc). Under Louisiana law, a final judgment is one that determines the merits of a controversy in whole or in part. La. C.C.P. art. 1841. A final judgment must be identified as such by appropriate language. La. C.C.P. art. 1918. Although the form and wording of judgments are not sacramental, a valid judgment must be precise, definite, and certain. A final appealable judgment must contain decretal language, and it must name the party in favor of whom the ruling is ordered, the party against whom the ruling is ordered, and the relief that is granted or denied. These determinations should be evident from the language of a judgment without reference to other documents in the record. **Laird v. St. Tammany Parish Safe Harbor**, 02-0045, p. 3 (La.App. 1 Cir. 12/20/02), 836 So.2d 364, 365-66. Further, the amount of recovery awarded by a judgment must be stated in the judgment with certainty and precision, so that a third

person could determine from the judgment the amount owed without reference to other documents. **In re Succession of Wagner**, 08-0212, p. 22 (La.App. 1 Cir. 8/8/08), 993 So.2d 709, 724. In the absence of such decretal language, the ruling is not a valid final judgment; and in the absence of a valid final judgment, this court lacks jurisdiction to review this matter. **Laird**, 02-0045 at p. 3, 836 So.2d at 366.

The judgment before us on appeal does not contain proper decretal language. Specifically, the judgment does not identify the party in favor of or against whom relief is granted, nor does it state the amount of recovery awarded under the reconventional demand with certainty and precision. Thus, the judgment appealed is not a valid final judgment, and we lack jurisdiction to review this matter.

#### **CONCLUSION**

For the foregoing reasons, the appeal of the May 14, 2018 judgment of the district court is dismissed. Costs of this appeal are assessed to the plaintiff, Rodney Denoux.

**APPEAL DISMISSED.**