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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

DELINDA DEE SCENTERS,

Petitioner-Appellee,

v.

NO. 34,671

LOUIS BARTH,

Respondent-Appellant.

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY

Deborah D. Walker, District Judge

Paulette J. Hartman

Albuquerque, NM

for Appellee

Louis Barth

Albuquerque, NM

Pro Se Appellant

MEMORANDUM OPINION

ZAMORA, Judge.

{1} Respondent, pro se, seeks to appeal from the district court's order resulting from February 23, 2014, hearing. We issued a notice of proposed summary disposition, proposing to dismiss for lack of a final, appealable order. Respondent has

1 filed a memorandum in support of reversal in response to our notice. We are not
2 persuaded that the order from which Respondent seeks to appeal is final. Therefore,
3 we dismiss.

4 {2} This case comes to us after entry of a final divorce decree and in the course of
5 the parties' liquidation of assets and final distribution of marital property. [RP 231-40,
6 262-64] This appeal relates to the valuation (or lack thereof) of the marital home and
7 a commercial property. [RP 321-326, 350-51, 400-03] The order from which
8 Respondent seeks to appeal is a minute or an interim order awaiting a signed quit
9 claim deed and a presentment hearing, or simply a more formal order without the
10 presentment hearing. [RP 402] Our notice proposed to dismiss on grounds that the
11 district court's order from which Respondent seeks to appeal is not a formal order
12 with decretal language and clearly contemplates further proceedings. [RP 402] We
13 also noted that even a more formal order at this stage, however, would be an
14 interlocutory ruling that approves the special master's report and rejects Respondent's
15 objections to that report. [RP 321-326, 350-51, 400-03] We characterized this as an
16 interlocutory liquidation or distribution matter that awaits execution—the sale of
17 marital property and distribution of those funds pursuant to the divorce decree. [RP
18 236] We explained that we found no authority whose application would consider the
19 district court's rejection of Respondent's objections to special master's report to be

1 a final and appealable order. *See, e.g., Muse v. Muse*, 2009-NMCA-003, ¶¶ 3-23, 145
2 N.M. 451, 200 P.3d 104 (recounting the numerous pleadings and proceedings that
3 attended the execution of a divorce decree, including objections to a special master’s
4 report on the liquidation of assets, which resulted in one of the appeals that this Court
5 dismissed); *cf. Speckner v. Riebold*, 1974-NMSC-029, ¶ 9, 86 N.M. 275, 523 P.2d 10
6 (observing that a foreclosure decree is final as to the rights and responsibilities of the
7 parties to the mortgaged property and interlocutory as to the sale of the property,
8 stating “[t]hat part of the decree of foreclosure that directs the manner and terms of the
9 sale of the mortgaged property does not become a final judgment until the judicial
10 confirmation of the sale, whereupon it becomes final”). Therefore, relying on the
11 general rule that requires a case to be disposed of to the fullest extent possible to be
12 considered final and immediately appealable, we proposed to dismiss. *See, e.g.,*
13 *Executive Sports Club, Inc. v. First Plaza Trust*, 1998-NMSC-008, ¶ 5, 125 N.M. 78,
14 957 P.2d 63 .

15 {3} We also noted that to the extent Respondent was challenging the provision
16 regarding the value of HTK contained in the stipulated division of property order, [RP
17 236] this was a collateral attack on the final decree of dissolution of marriage that
18 should be raised by Rule 1-060(B) NMRA motion to the district court.

1 {4} Respondent does not respond with any argument indicating that the district
2 court's order is final and appealable and we are not persuaded that it is. For the
3 reasons set forth above, we hold that Respondent attempts to appeal from a non-final,
4 interlocutory order for which interlocutory review has not been certified under NMSA
5 1978, § 39-3-4(A) (1999). Without a final, appealable order, we lack jurisdiction to
6 consider Respondent's appeal and dismiss.

7 {5} **IT IS SO ORDERED.**

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M. MONICA ZAMORA, Judge

10 **WE CONCUR:**

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MICHAEL E. VIGIL, Chief Judge

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JAMES J. WECHSLER, Judge