

DISTRICT COURT OF APPEAL OF FLORIDA  
SECOND DISTRICT

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JONATHAN S. COHEN, and AAA BRONZE STATUES & ANTIQUES,  
INC.,

Appellants,

v.

CAROLYN CORPORATION, INC.,

Appellee.

No. 2D20-671

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June 11, 2021

Appeal pursuant to Fla. R. App. P. 9.130 from the Circuit Court for Hillsborough County; Gregory P. Holder, Judge.

Randall O. Reder, of Randall O. Reder, P.A., Tampa, for Appellants.

Steven E. Gurian and Anthony M. Lopez, of Marin, Eliajek, Lopez & Martinez, P.L., Coconut Grove, for Appellee.

PER CURIAM.

On March 4, 2021, this court directed appellants to show cause why this appeal should not be dismissed as moot in light of

the fact that appellee has since obtained a judgment against appellant AAA Bronze Statues & Antiques, Inc., thereby obviating the need for the temporary injunction at issue in this appeal. In response, appellants argue that although the issue concerning entitlement to the funds held in escrow is now moot, this appeal should not be dismissed because there are collateral legal consequences regarding attorney's fees associated with this appeal and in related case number 2D21-537. *See Godwin v. State*, 593 So. 2d 211, 212 (Fla. 1992) (noting that an otherwise moot case will not be dismissed when "collateral legal consequences that affect the rights of a party flow from the issue to be determined"). We disagree.

The only request for attorney's fees in connection with this appeal is appellee's motion for appellate attorney's fees, which is based on the fee provision contained in the note. Even assuming this court granted appellee's request for appellate attorney's fees, any such award would be contingent upon appellee prevailing in the proceedings below. The mere possibility that appellee might receive fees in connection with this appeal—or that either party might receive fees in any related appeal—is too speculative to preclude

dismissal of this appeal on mootness grounds. *See, e.g., Kendall Healthcare Grp., Ltd. v. Pub. Health Tr. of Miami-Dade Cnty.*, 296 So. 3d 533, 535 (Fla. 1st DCA 2020) ("A mere possibility that one might receive fees if successful is insufficient to be deemed a 'consequence' flowing from a claim."). Accordingly, to the extent that this appeal challenges the temporary injunction, it is dismissed as moot.

Furthermore, to the extent that this appeal challenges the portion of the trial court's order granting proceedings supplementary, it is dismissed for lack of jurisdiction. *See Fla. R. App. P. 9.130(a)(3); cf. Schron v. Nunziata*, 136 So. 3d 684, 686 (Fla. 2d DCA 2014) (distinguishing nonfinal orders impleading parties in proceedings supplementary that determine personal jurisdiction, which are appealable under Florida Rule of Appellate Procedure 9.130(a)(3)(C)(i), from similar nonappealable orders which do not determine personal jurisdiction).

Dismissed.

KHOUZAM, C.J., and LUCAS and STARGEL, JJ., Concur.

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Opinion subject to revision prior to official publication.