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STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2016 CA 0137

LUIS ESPINOZA-PERAZA

VERSUS

MARTHA ALEXANDER, WILLARD BELTON AND ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY

Judgment Rendered: MAR 06 2017

Appealed from the
Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge,
State of Louisiana
Docket Number C626206

Honorable William A. Morvant, Judge Presiding

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BEFORE: GUIDRY, McCLENDON, AND HOLDRIDGE, JJ.

GUIDRY, J.

The plaintiff, Luis Espinoza-Peraza, appeals from a judgment of the trial court maintaining a peremptory exception raising the objection of *res judicata* filed by the defendants, Martha Alexander and Willard Belton, and their insurer, Allstate Property and Casualty Insurance Company (“Allstate”). Plaintiff also appeals the denial of his motion for new trial. For the reasons that follow, we dismiss the appeal.

FACTUAL AND PROCEDURAL BACKGROUND

As a result of a motor vehicle accident that occurred on or about November 17, 2012, the plaintiff filed a petition for damages naming Alexander, Belton, and their insurer, Allstate, as defendants therein.¹ After filing an answer, Allstate filed a peremptory exception raising the objection of *res judicata* contending that in connection with this accident, it issued a check payable to the plaintiff dated January 31, 2013, in the amount of \$605.00, which stated that it was “IN PAYMENT OF: FULL AND FINAL SETTLEMENT OF ANY AND ALL CLAIMS FOR BODILY INJURY ARISING FROM LOSS OF 11/17/2012.” Allstate further contended that the plaintiff endorsed, then deposited and/or negotiated the check, all with the full understanding that the check was in final settlement of any claims arising out of the accident in suit. Accordingly, Allstate sought dismissal of the plaintiff’s suit with prejudice.

Following a hearing on June 30, 2014, the trial court maintained Allstate’s peremptory exception raising the objection of *res judicata*.² However, a written judgment maintaining the peremptory exception was not signed by the trial court

¹ In his petition for damages, the plaintiff averred that he was the occupant of a vehicle traveling on Florida Boulevard in Baton Rouge when the vehicle he was traveling in was rear-ended by a vehicle owned and operated by Alexander and/or Belton, causing personal injuries and other damages to him.

² Although the minutes indicate that the peremptory exception raising the objection of *res judicata* was heard on June 30, 2014, the record before us on appeal does not contain a transcript of the June 30, 2014 hearing.

until January 20, 2016. In the interim, on July 14, 2014, plaintiff filed a motion for new trial. Following a hearing before the trial court on September 8, 2014, the trial court denied plaintiff's motion for new trial. On March 6, 2015, the trial court signed a written judgment denying the motion for new trial and dismissing the defendants, Alexander, Belton, and Allstate, from the lawsuit with prejudice.

From these rulings, the plaintiff filed the instant appeal, contending that the trial court erred in maintaining the peremptory exception raising the objection of *res judicata* where his negotiation of Allstate's check failed to constitute a full and final settlement of his claims against the named defendants.

DISCUSSION

At the outset, we note that 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. 1st Cir. 10/22/03), 867 So. 2d 723, 725. 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. A valid judgment must be precise, definite, and certain. See Laird v. St. Tammany Parish Safe Harbor, 02-0045, p. 3 (La. App. 1st Cir. 12/20/02), 836 So. 2d 364, 365. 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. See Carter v. Williamson Eye Center, 01-2016, p. 2 (La. App. 1st Cir. 11/27/02), 837 So. 2d 43, 44. The failure to name the defendant against whom the judgment is rendered in a case with multiple defendants makes the judgment fatally defective, because one cannot discern from its face against whom it may be enforced. Jenkins v. Recovery Technology Investors, 02-1788, p. 3 (La. App. 1st Cir. 6/27/03), 858 So. 2d 598, 600. These determinations should be evident from

the language of a judgment without reference to other documents in the record. Laird, 02-0045 at p. 3, 836 So. 2d at 366.

On review, we find that the January 20, 2016 judgment does not contain proper decretal language. Specifically, the judgment states “that there be Judgment herein in favor of Allstate Property and Casualty Insurance Company, and against Luis Espinoza-Peraza, granting the Peremptory Exception of Res Judicata; and ... that all costs associated with this motion are assessed against/to each party.” Thus, although the judgment “grants” Allstate’s peremptory exception, it fails to dismiss a party and further fails to set forth decretal language disposing of or dismissing the plaintiff’s claims against the defendants. As no party is actually dismissed by the judgment, it is unclear from the judgment whether the entirety of plaintiff’s case is disposed of or dismissed by the judgment. In the absence of such decretal language, the judgment before us is defective and cannot be considered as a “final judgment” for the purpose of an immediate appeal. See Costanza v. Snap-On Tools, 13-0332, p. 6 (La. App. 1st Cir. 3/5/14)(unpublished opinion); Johnson v. Mount Pilgrim Baptist Church, 05-0337, p. 3 (La. App. 1st Cir. 3/24/06), 934 So. 2d 66, 67. In the absence of a final judgment, this court lacks jurisdiction to review this matter. Laird, 02-0045 at p. 3, 836 So. 2d at 366.

Moreover, to the extent that plaintiff appeals the denial of his motion for new trial, we note that the denial of a motion for new trial is a non-appealable interlocutory judgment. La. C.C.P. art. 2083. However, appellate courts may consider interlocutory judgments as part of an unrestricted appeal from a final judgment. Bailey v. Robert V. Neuhoff Limited Partnership, 95-0616, pp. 3-4 (La. App. 1st Cir. 11/9/95), 665 So. 2d 16, 18, writ denied, 95-2962 (La. 2/9/96), 667 So. 2d 534. In the instant case, although the trial court’s March 6, 2015 judgment denying plaintiff’s motion for new trial contains decretal language dismissing the named defendants from this litigation, that interlocutory judgment is not part of an

unrestricted appeal from a valid final judgment; thus, we decline to consider that interlocutory ruling. See Fournet v. Smith, 06-1075, p. 6 (La. App. 1st Cir. 5/4/07)(unpublished opinion) (where the judgment appealed on the merits failed to identify the defendants cast in judgment and was thus not a valid, final judgment, the appellate court was unable to consider the appeal of the trial court's denial of the motion for new trial, noting that interlocutory judgments may only be considered as part of an unrestricted appeal from a final judgment); Oregan v. Cashio, 15-612, p. 6 (La. App. 5th Cir. 1/27/16), 185 So. 3d 885, 887 ("Because [plaintiff's] motion for new trial was based upon an invalid judgment, we find the trial court's ... denial of her motion [for new trial] to be without legal effect."); cf. Costanza, 13-0332 at p. 9 ("In this instance, since there was no final judgment, there was no need for a motion for new trial, and the appeal of the denial of the new trial is moot."); and Input/Output Marine Systems, Inc. v. Wilson Greatbatch, Technologies, Inc., 10-477, p. 15 (La. App. 5th Cir. 10/29/10), 52 So. 3d 909, 917 (where the judgment on appeal failed to contain decretal language, the appellate court, relying on and discussing Fournet, determined it was not a valid final judgment noting, "Also, the post-trial rulings denying the motion to reform the alleged judgment on the basis it was a nullity are interlocutory and are not part of an unrestricted appeal from a valid final judgment. As in Fournet, we decline to consider the interlocutory rulings. Moreover, the parties filed post-trial proceedings based on an invalid judgment. Because those proceedings are based on an error of law, we find them without legal effect.")

Hence, as this court lacks jurisdiction in the absence of a valid final judgment, we dismiss the appeal.

CONCLUSION

For the above and foregoing reasons, the appeal is dismissed. Costs are assessed to the plaintiff/appellant, Luis Espinoza-Peraza.

APPEAL DISMISSED.