

**NOT DESIGNATED FOR PUBLICATION**

**RENEWAL HOMES** \* **NO. 2017-CA-0199**  
**VERSUS** \*  
**DORIS LANEHEART** \* **COURT OF APPEAL**  
\* **FOURTH CIRCUIT**  
\* **STATE OF LOUISIANA**

\* \* \* \* \*

APPEAL FROM  
FIRST CITY COURT OF NEW ORLEANS  
NO. 2016-08048, SECTION "C"  
Honorable Veronica E Henry, Judge

\* \* \* \* \*

**Judge Terrel J. Broussard, Pro Tempore**

\* \* \* \* \*

(Court composed of Judge Terri F. Love, Judge Terrel J. Broussard, Pro Tempore,  
Judge Marion F. Edwards, Pro Tempore)

Michael J. Winsberg  
Jessica Bach  
LAW OFFICES OF WINSBERG & WINSBERG  
829 Baronne Street  
New Orleans, LA 70113

**COUNSEL FOR PLAINTIFF/APPELLANT, RENEWAL HOMES**

Plezetta West  
SOUTHEAST LOUISIANA LEGAL SERVICES  
1010 Common Street, Ste. 1400A  
New Orleans, LA 70112

**COUNSEL FOR DEFENDANT/APPELLEE, DORIS LANEHEART**

**APPEAL DISMISSED**

**SEPTEMBER 20, 2017**

The plaintiff/appellant, Renewal Homes, LLC, seeks this Court's review and reversal of the December 20, 2016 judgment denying the appellant's motion for new trial from the December 13, 2016 judgment denying the Appellant's rule for possession in favor of the defendant/appellee, Doris Laneheart. For the reasons set forth below, we dismiss the appeal.

The December 13, 2016 judgment reads as follows:

This matter came before the court on December 8, 2016 on Plaintiff's Rule for Possession.

Present were: Michael Winsberg, attorney for plaintiff, Renewal Home

Plazetta West, attorney for defendant, Doris Laneheart

After considering the pleadings, testimony, evidence and applicable law, the court orders as follows:

**IT IS HEREBY ORDERED** that the Rule for Possession is **DENIED** for reasons orally assigned.

New Orleans, Louisiana, this 13<sup>th</sup> day of December, 2016.

Before considering the merits of any appeal, appellate courts have the duty to determine, *sua sponte*, whether subject matter jurisdiction exists, even when the parties do not raise the issue. *Urquhart v. Spencer*, 2015-1354, p.3 (La. App. 4 Cir. 12/1/16), 204 So.3d 1074, 1077 *citing*, *Moon v. City of New Orleans*, 15-1092, 15-1093 (La. App. 4 Cir. 3/16/16), 190 So.3d 422, 425. "A valid judgment must be

precise, definite and certain.... The decree alone indicates the decision.... The result decreed must be spelled out in lucid, unmistakable language. .... The quality of definiteness is essential to a proper judgment.” *Bd. of Sup'rs of Louisiana State Univ. & Agric. & Mech. Coll. v. Mid City Holdings, L.L.C.*, 2014-0506, p. 21 (La. App. 4 Cir. 10/15/14), 151 So. 3d 908, 910, citing *Input/Output Marine Sys., Inc. v. Wilson Greatbatch, Tech, Inc.*, 10–477, pp. 12–13; (La. App. 5 Cir. 10/29/10), 52 So.3d at 915–16.

At this juncture, this court may exercise its discretion and convert the instant appeal into an application for supervisory writs and rule on the merits. See *Urquhart v. Spencer, supra*. While it would be preferable to do so if there were no impediments, this Court is unable to convert this matter because the time delays for filing an appeal have not been met. This court is restrained by the jurisprudence as expressed below:

Under certain circumstances, this court has exercised its discretion to convert the appeal of an interlocutory judgment into an application for supervisory writ. *Reed v. Finklestein*, 2001–1015, p. 3 (La. App. 4 Cir. 1/16/02), 807 So.2d 1032, 1033–34; *Lalla v. Calamar, supra*; *Favrot v. Favrot*, 2010–0986, p. 2 (La. App. 4 Cir. 2/9/11), 68 So.3d 1099, 1102.4 However, we do so only when the motion for appeal has been filed within the thirty-day time period allowed for the filing of an application for supervisory writs under Rule 4–3 of the Uniform Rules, Courts of Appeal. See: *Reed v. Finklestein, supra*; *Francois v. Gibeault*, 2010–0180, p. 2 (La. App. 4 Cir. 8/25/10), 47 So.3d 998, 1000; *Jones v. Next Generation Homes, LLC*, 2011–0407, p. 2 (La.App. 4 Cir. 10/5/11), 76 So.3d 1238, 1240, writ denied, 2011–2401 (La.11/23/11), 76 So.3d 433; *Barham, Warner & Bellamy, L.L.C. v. Strategic Alliance Partners, L.L.C.*, 2009–1528, pp. 4–5 (La. App. 4 Cir. 5/26/10), 40 So.3d 1149, 1152.

*Delahoussaye v. Tulane Univ. Hosp. & Clinic*, 2012-0906 pp.4-5 (La. App. 4 Cir. 2/20/13), 155 So.3d 560, 562–63.

The record reveals that the judgment which the Appellant seeks this Court's review is dated December 13, 2016. The Appellant filed a motion for new trial on December 20, 2016, that was denied on December 21, 2016. The Appellant motioned the trial court for a devolutive appeal on January 6, 2017, and the trial court granted the Appellant forty-five days to take the instant appeal. The thirty-day time period allowed for the filing of an application for supervisory writs under Rule 4-3 of the Uniform Rules, Courts of Appeal was not met. This court, therefore, is prohibited from considering this appeal.

Therefore, this Court will not exercise its supervisory jurisdiction and this matter is dismissed.

**APPEAL DISMISSED**