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APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1792-18**

878 STUYVESANT, LLC,

Plaintiff-Respondent,

v.

DANOUCHKA DESIR,

Defendant-Appellant.

Submitted April 25, 2022 – Decided June 10, 2022

Before Judges Rothstadt and Bishop-Thompson.

On appeal from the Superior Court of New Jersey, Law
Division, Essex County, Docket No. LT-029555-18.

Danouchka Desir, appellant pro se.

Respondent has not filed a brief.

PER CURIAM

In this commercial tenancy action, defendant Danouchka Desir appeals from a December 18, 2018¹ judgment for possession entered against her in favor of plaintiff 878 Stuyvesant, LLC. On appeal, she raises numerous arguments supporting her overarching contentions that she did not receive a fair trial, the trial court mistakenly viewed an earlier action as being interlocutory to this action, she previously paid the amounts the trial court found were due and owing, and plaintiff failed to file a certificate of registration thus depriving the trial court of jurisdiction.

According to defendant's appellate brief and the limited record before us,² we observe the warrant of removal was executed, evidently in January 2019, resulting in defendant being locked out of the business premises.³

¹ We conclude from our review of the record that the unusual delay in this matter being submitted for our consideration was the result of defendant's actions. Specifically, defendant filed a timely appeal in 2018. By order of our court, she was denied a stay pending appeal. The appeal was administratively dismissed in 2019, and not reinstated until defendant corrected deficiencies in 2020.

² We observe that plaintiff's right to file a responding brief and appendix was suppressed by court order after plaintiff failed to file a timely response to defendant's appeal.

³ Our court clerk's office verified defendant's representation with the court officer that conducted the lock out on January 30, 2019. Moreover, defendant's contention is supported by the fact that there is no evidence that a stay was entered that would have prohibited the warrant of removal from being executed during the past three and a half years.

Under these circumstances, we conclude defendant's appeal is now moot as no further relief can be afforded by this court. We therefore dismiss her appeal.

The removal of a tenant, either by execution of the warrant of removal or its voluntarily vacating the premises, renders moot an appeal from the judgment of possession only. "An issue is 'moot when [the] decision sought in a matter, when rendered, can have no practical effect on the existing controversy.'" Redd v. Bowman, 223 N.J. 87, 104 (2015) (quoting Deutsche Bank Nat'l Tr. Co. v. Mitchell, 422 N.J. Super. 214, 221-22 (App. Div. 2011)). "When a party's rights lack concreteness from the outset or lose it by reason of developments subsequent to the filing of suit, the perceived need to test the validity of the underlying claim of right in anticipation of future situations is, by itself, no reason to continue the process." Wisniewski v. Murphy, 454 N.J. Super. 508, 518 (App. Div. 2018) (quoting JUA Funding Corp. v. CNA Ins./Cont'l Cas. Co., 322 N.J. Super. 282, 288 (App. Div. 1999)).

"Mootness is a threshold justiciability determination rooted in the notion that judicial power is to be exercised only when a party is immediately threatened with harm." Stop and Shop Supermarkets, LLC v. Cnty. of Bergen, 450 N.J. Super. 286, 291 (App. Div. 2017) (quoting Betancourt v. Trinitas

Hosp., 415 N.J. Super 301, 311 (App. Div. 2010)). "[F]or reasons of judicial economy and restraint, courts will not decide cases in which the issue is hypothetical, [or] a judgment cannot grant effective relief[.]" Ibid. (alterations in original) (quoting Cinque v. N.J. Dep't of Corr., 261 N.J. Super. 242, 243 (App. Div. 1993)). "[A]n issue is 'moot' when the decision sought in a matter, when rendered, can have no practical effect on the existing controversy." Comando v. Nugiel, 436 N.J. Super. 203, 219 (App. Div. 2014) (quoting Greenfield v. N.J. Dep't of Corr., 23 N.J. Super. 254, 257-58 (App. Div. 2006)).

Ordinarily, we will dismiss as moot an appeal challenging an eviction when the tenant has been removed or otherwise vacated the premises. See e.g., Daoud v. Mohammad, 402 N.J. Super. 57, 61 (App. Div. 2008) ("Because the court's jurisdiction is limited to determining the issue of the landlord's right to possession of the premises, and . . . the tenant vacated the premises and the premises have been re-rented, the issue can no longer be determined."); Sudersan v. Royal, 386 N.J. Super. 246, 251 (App. Div. 2005) ("Ordinarily, where a tenant no longer resides in the property, an appeal challenging the propriety of an eviction is moot."). The removed tenant still has a right to seek damages in the Law Division, arising from a wrongful eviction. Daoud, 402 N.J. Super. at 61.

Under the present circumstances, we are constrained to dismiss defendant's appeal without prejudice to her pursuing whatever remedies may otherwise be available to her in the Law Division, subject to plaintiff's valid defenses, if any.

Appeal dismissed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



CLERK OF THE APPELLATE DIVISION