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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

ANA MARIA CALDWELL, trustee of the Ana Maria Caldwell Revocable Trust, Plaintiff and Respondent, v. CHELSEA QUINTERO, trustee of the Iris M. Caldwell Trust, Defendant and Appellant.	B346768 (Los Angeles County Super. Ct. No. 24STCV10531)

APPEAL from an interlocutory default judgment of the Superior Court of Los Angeles County, Michael Shultz, Judge. Appeal dismissed as moot.

Kyle W. Peterson; The DLJ Law Firm and Dorian L. Jackson for Defendant and Appellant.

Talkov Law Corp., Scott Talkov and Katja M. Grosch for Plaintiff and Respondent.

INTRODUCTION

Defendant Chelsea Quintero[1] appeals from an interlocutory default judgment entered against her mother and predecessor in interest, Iris Caldwell. After the notice of appeal was filed, the trial court set aside the default judgment. We conclude that this appeal is moot and we dismiss it. (*In re D.P.* (2023) 14 Cal.5th 266, 276.)

We exercise our discretion under California Rules of Court, rule 8.278(a)(5) to order that the parties bear their own costs on appeal.

BACKGROUND

The merits of the action are not before us. We describe the record only to the extent necessary to explain our holding that this appeal is moot.

This appeal arises from an action for partition of a single-family residence in Granada Hills, California. The property was co-owned by Ana Caldwell and her daughter Iris Caldwell as tenants-in-common. Ana[2] filed and served on Iris a complaint for partition of the property.

Iris failed to file a responsive pleading, and Ana filed a request for entry of default. On October 11, 2024, Ana noticed a hearing on a motion for default judgment for November 14, 2024.

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[1] Defendant Iris M. Caldwell, the named party on the default judgment, died on November 11, 2024, before the default judgment was entered. Chelsea Quintero, Iris Caldwell's daughter and successor trustee, who has already been substituted in as the defendant in the trial court, retained the counsel that filed the instant notice of appeal. Ms. Quintero has moved to be substituted in as the appellant and is acting as the successor to Iris M. Caldwell in challenging the default judgment. We grant the motion for substitution.

[2] Because parties share a last name, we use first names here for ease of reference. No disrespect is intended.

Iris died on November 11, 2024. A funeral was held on December 16, 2024, attended by various relatives of Iris, including Ana, Ana's son Cesar Diaz, and Iris' children, Chelsea and Stephen Quintero.

The court reassigned the case to a different trial department, and on November 12, 2024, rescheduled the hearing on the motion for default interlocutory judgment to January 9, 2025. Ana and her counsel did not provide notice of the reassignment or the hearing date on the default judgment motion to Chelsea, Stephen, or any of Iris's other successors. Chelsea nonetheless learned of the January 9 hearing and attended it in propria persona, but was not allowed to speak at the hearing. At that January 9, 2025 hearing, the trial court granted the interlocutory default judgment that Ana had proposed.

On March 14, 2025, at Ana's request, the court entered an "Amended Default Interlocutory Judgment of Partition and Appointment of Referee" drafted by Ana's counsel. The judgment stated that Ana and Iris were equal owners of the property, as trustees of their respective trusts. A referee was appointed and authorized to sell the property.

Meanwhile, Chelsea retained counsel and, on May 22, 2025, filed a motion to set aside the default and the default judgment. One day later, on May 23, 2025, Chelsea's counsel filed a notice of appeal of the default judgment, commencing this appeal.

On August 8 and September 12, 2025, the trial court issued orders setting aside the entry of default and the default judgment. It did so both on grounds of lack of notice and on grounds of extrinsic fraud. The trial court concluded that Ana knew about Iris's death as of December 2024 and she and her counsel should have provided notice to Iris's successors of the reassignment of the action and the January 9 hearing before obtaining the

default judgment. Put differently, the March 14, 2025 judgment that is the only subject of this appeal is no longer in effect.

DISCUSSION

A. *The Appeal Is Moot and Should Be Dismissed*

"A court is tasked with the duty "'to decide actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions or abstract propositions, or to declare principles or rules of law which cannot affect the matter in issue in the case before it.'" [Citation.] A case becomes moot when events "'render[ ] it impossible for [a] court, if it should decide the case in favor of plaintiff, to grant him any effect[ive] relief.'" [Citation.] For relief to be 'effective,' … the plaintiff must complain of an ongoing harm." (*In re D.P., supra,* 14 Cal.5th at p. 276.)

Here, the trial court vacated the judgment that is the subject of the appeal.[3] That judgment has already ceased to exist. This court cannot grant meaningful relief by reversing the default judgment a second time.

While Chelsea concedes as much, and thus effectively concedes that the appeal is moot, she argues that we should consider the appeal for a number of other reasons.

First, Chelsea asserts that arguments about mootness in respondent's brief should be considered "a nullity" because Ana is allegedly incapacitated with dementia. Therefore, according to Chelsea, Ana's counsel lacks

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[3] Neither party contends that the trial court lacked the power to vacate the default judgment. (*Cf. Andrisani v. Saugus Colony Limited* (1992) 8 Cal.App.4th 517, 523 [discussing trial court's power to set aside judgments void on their face notwithstanding the "automatic stay" that arises from the filing of a notice of appeal]; *Diaz v. Professional Community Management, Inc.* (2017) 16 Cal.App.5th 1190, 1204–1205 [judgment entered without proper notice void on its face].) We therefore need not and do not address that issue.

authority to raise any arguments, including about mootness. But whether or not the appeal is moot does not depend on the capacity of Ana. Mootness is an issue that this court can and should examine on its own motion, even if neither party raises it. (*City of Hollister v. Monterey Ins. Co.* (2008) 165 Cal.App.4th 455, 479.)

Second, Chelsea argues that this court has already "resolved" the issue of mootness. It notes that a different division of this court, to which the appeal was assigned at that time, summarily denied a motion to dismiss on the grounds of mootness on November 25, 2025. However, a summary denial of a motion to dismiss does not preclude later reconsideration by the full panel. (*Kowis v. Howard* (1992) 3 Cal.4th 888, 900; *In re Salvador M.* (2005) 133 Cal.App.4th 1415, 1420, fn. 3.)[4]

Third, invoking a number of doctrines, Chelsea argues that we should exercise our discretion to consider the appeal despite its mootness. We are not persuaded.

Noting that we have discretion to hear a moot appeal that concerns a matter of broad public interest, and that the case involves the Partition of Real Property Act (Code Civ. Proc., § 874.311 et seq.) under which there are "currently no published opinions," Chelsea claims we should hear the appeal. We do have discretion to decide moot appeals of broad public interest. (*MHC*

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[4] The motion to dismiss that the prior panel summarily denied also included a request by Ana for sanctions. Ana argued that the appeal was frivolous and maintained for an improper purpose, and therefore that sanctions were appropriate. We deny the request for sanctions. While we disagree with Chelsea's arguments regarding mootness, we do not find them frivolous. Nor, given that the appeal was originally brought to set aside a default judgment that the trial court found insufficient, and then maintained based on non-frivolous arguments that the appeal was not moot, do we find that the appeal was brought unreasonably or solely for an improper purpose. (Cal. Rules of Court, rule 8.276(a)(1)-(4).)

Operating Limited Partnership v. City of San Jose (2003) 106 Cal.App.4th 204, 215.) But this is not such an appeal. The issues here are highly fact specific and concern only the parties. (*Ibid.* [declining to find mootness exception for fact-specific appeal].) While the Partition of Real Property Act is relatively new, the trial court should have the opportunity in the first instance to apply that law to the specific facts involving the partition of this specific property.

Chelsea also asserts that we should exercise our discretion to ignore mootness because the appeal involves issues that will recur between the parties in further litigation in this case. However, we will decide a moot appeal that concerns ongoing issues between parties only when "'the parties have fully litigated the issues.'" (*City of Hollister v. Monterey Ins. Co., supra,* 165 Cal.App.4th at p. 480.) That is not the case here. The parties have not fully litigated the issues involving the partition. The trial court (after it vacated the default judgment) has not yet ruled on the partition.

Finally, Chelsea argues that we should resolve the appeal now in order to resolve her entitlement to costs. However, "it is settled that an appeal will not be retained solely to decide the question of liability for costs." (*Paul v. Milk Depots, Inc.* (1964) 62 Cal.2d 129, 134.)

In sum, the appeal is moot. We therefore dismiss it.

B. *The Parties Shall Bear Their Own Costs on Appeal*

Chelsea has filed a motion to be determined to be the prevailing party for purposes of an award of costs on appeal. Ordinarily, the prevailing party is the respondent (here, Ana) if an appeal is dismissed. (Cal. Rules of Court, rule 8.278(a)(2).) But this is not a hard and fast rule. This court may, "[i]n the interests of justice … award or deny costs as it deems proper." (Cal. Rules of Court, rule 8.278(a)(5).)

While we dismiss the appeal as moot—and while we therefore make no ruling concerning the underlying case—we cannot ignore the procedural history. The appeal was only noticed as part of an attempt to set aside a default judgment. The trial court set aside that default judgment. It did so based on a finding that the default judgment had been obtained through extrinsic fraud. Although we have ultimately concluded that the appeal is moot, and although we make no comment as to whether or not the default judgment was in fact fraudulently obtained, Chelsea succeeded in her primary goal of having the default judgment set aside. As Chelsea wanted, the action is now proceeding in the trial court. Under these somewhat unique circumstances, both sides have obtained some portion of their goals on appeal. We conclude that the interests of justice are best served by having the parties bear their own appellate costs.

DISPOSITION

The appeal is dismissed as moot. The motion to substitute Chelsea Quintero, successor trustee of the Iris M. Caldwell Trust, as appellant is granted. Appellant's request for judicial notice filed June 2, 2026 is granted. Appellant's motion to be determined the prevailing party on appeal is denied. The parties are to bear their own costs on appeal.

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DAUM, J.

We concur:

ZUKIN, P. J.

MORI, J.