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TRP Int'l, Inc. v. Proimtu MMI LLC, 133 Nev. Adv. Op. 13 (Apr. 6, 2017)

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CIVIL PROCEDURE: INTERLOCUTORY & NONAPPEALABLE ORDERS

Summary

The Court held that an order granting a motion to reconsider and vacate the final judgment is not appealable as a special order after final judgment. There is no final judgment if that motion to vacate is granted; thus, there cannot be a special order after a final judgment.

Background

Proimtu MMI LLC filed an amended complaint against TRP International, Inc. Later, the district court granted TRP's motion to dismiss and certified the order as a final judgment. Proimtu subsequently filed a motion to amend or reconsider and the lower court vacated the judgment that dismissed the claims, allowing the proceedings to continue. TRP appealed from that order vacating the final judgment and denying the motion to dismiss.

Discussion

TRP states that the order granting a motion to vacate the final judgment is appealable as a special order after a final judgment.² Proimtu states that the order is not appealable because there is no final judgment after the district court vacated the final judgment by order. More specifically, there can be no special order once a final judgement is vacated.

The Court has previously held that a post-judgment order granting a new trial and vacating the final judgment is not a special order after final judgment.³ Thus, any order that grants vacating the final judgment is an interlocutory, nonappealable order.⁴ In this case, granting the motion to reconsider and vacate the final judgment was similar to granting a new trial. Therefore, there was no special order after final judgment in this case to appeal. Further, the Court stated there are no other statutes or court rules that would authorize TRP's appeal.

Conclusion

The Court held that an order that grants vacating a final judgment is not appealable as a special order after final judgment. Thus, the Court dismissed TRP's appeal for lack of jurisdiction.

¹ By Elise Conlin

² See *Gumm v. Mainor*, 59 P.3d 1220, 1225 (2002).

³ *Reno-Hilton Resort Corp. v. Verderber*, 106 P.3d 134, 137 n.24 (2005).

⁴ 15B Charles Alan Wright, Arthur R. Miller & Edward H. Cooper, *Federal Practice and Procedure* § 3916 (2d ed. 1992 and Supp. 2017).