

NOT DESIGNATED FOR PUBLICATION

MARVIN BEAULIEU

*

NO. 2016-CA-1113

VERSUS

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COURT OF APPEAL

**AUTOCRAT SOCIAL AND
PLEASURE CLUB, INC.**

*

FOURTH CIRCUIT

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STATE OF LOUISIANA

APPEAL FROM
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 2016-05897, DIVISION "M"
Honorable Paulette R. Irons, Judge

Judge Terri F. Love

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

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APPEAL DISMISSED

SEPTEMBER 13, 2017

This appeal arises from plaintiff's contention that his membership in the defendant organization was wrongfully terminated. The trial court found that plaintiff was not entitled to damages or a preliminary injunction reinstating his membership. Plaintiff appealed.

We find that the judgment of the trial court lacks decretal language. Therefore, we dismiss the appeal.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

Marvin Beaulieu's membership in the Autocrat Social and Pleasure Club, Inc. ("Autocrat") was terminated in 2016. Following his termination, Mr. Beaulieu filed a Petition for Damages, Temporary Restraining Order, and Injunction. Mr. Beaulieu contended that he suffered from a loss of reputation, embarrassment, humiliation, loss of fellowship, loss of opportunity, loss of business opportunities, and severe emotional distress.

The duty judge at the trial court issued a temporary restraining order on June 10, 2016, and it expired on June 16, 2016. Autocrat then filed exceptions of insufficiency of service of process, no cause of action, and no right of action, as well as a motion to dissolve. Following a hearing, the trial court denied Mr.

Beaulieu's request for an injunction/petition and found that he was not entitled to damages. Mr. Beaulieu's appeal followed.

TRIAL COURT JUDGMENT

Mr. Beaulieu sought an appeal from a judgment denying a request for an injunction pursuant to La. C.C.P. art. 3601.

The trial court's July 15, 2016 judgment provided:

After considering the law, pleadings, memoranda, and arguments of counsel, the Court finds that damages are not allowed under Louisiana law for wrongful expulsion from a private non-profit organization. The Court further finds that there is no authority under Louisiana law allowing a Court to reinstate the membership of an individual into a private non-profit social club when the expulsion of the member was done for what the Board of Directors found to be good cause pursuant to the organization's Constitution and Bylaws and there is no finding that the suspension and expulsion of the member was not conducted fairly and honestly or that it was capricious, arbitrary, or unjustly discriminatory.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Plaintiff's Petition for Damages and Injunction be and is hereby **DENIED**.

In the written reasons for judgment, the trial court discussed the law regarding the issuance of a preliminary injunction, and denied same.

This Court issued a Rule to Show Cause to Mr. Beaulieu on August 21, 2017, as to why his appeal should not be dismissed pursuant to La. C.C.P. art. 3612. La. C.C.P. art. 3612 provides that "[a]n appeal from an order or judgment relating to a preliminary injunction must be taken, and any bond required must be furnished, within fifteen days from the date of the order or judgment." The trial court's judgment was rendered on July 15, 2016. Mr. Beaulieu did not file his motion for appeal until August 9, 2016, which was past the fifteen day time limitation.

In his response to our Rule to Show Cause, Mr. Beaulieu contends that the judgment appealed pertained to the permanent injunction, and as such, is not subject to the 15-day limitation contained in La. C.C.P. art. 3612. The record in this matter fails to include reference to a judgment issued by the trial court regarding a preliminary injunction other than the complained of July 15, 2016 judgment. The record demonstrates that a temporary restraining order was issued and dissolved of its own accord. Further, the memoranda filed by the parties prior to and after the hearing on the injunction reflect that the parties were presenting their respective arguments for and against a **preliminary** injunction. As stated above, the trial court discussed the law for issuing a preliminary injunction in the written reasons for judgment. As such, we do not find that the judgment relates to a permanent injunction. Nevertheless, the trial court's judgment failed to comply with the decretal language requirements.

“A judgment is the determination of the rights of the parties in an action and may award any relief to which the parties are entitled.” La. C.C.P. art. 1841. “We cannot determine the merits of an appeal unless our jurisdiction is properly invoked by a valid final judgment.” *Bd. of Sup'rs of Louisiana State Univ. & Agric. & Mech. Coll. v. Mid City Holdings, L.L.C.*, 14-0506, p. 2 (La. App. 4 Cir. 10/15/14), 151 So. 3d 908, 910. Further, as this Court outlined in *Mid City Holdings, LLC*:

“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.” *Input/Output Marine*, 10-477, pp. 12-13; 52 So.3d at 915-16 (citations omitted).

“A final judgment shall be identified as such by appropriate language.” La. C.C.P. art. 1918. “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.” *Palumbo v. Shapiro*, 11–0769, p. 5 (La.App. 4 Cir. 12/14/11); 81 So.3d 923, 927, quoting *Input/Output Marine*, 10–477, p. 13; 52 So.3d at 916. “The specific relief granted should be determinable from the judgment without reference to an extrinsic source such as pleadings or reasons for judgment.” *Input/Output Marine*, 10–477, p. 13; 52 So.3d at 916.

Mid City Holdings, L.L.C., 14-0506, pp. 2-3, 151 So. 3d at 910.

The judgment in this case does not name the party against whom the ruling was ordered or whom it is in favor. Further, and more concerning in this case, the trial court failed to specify what relief was granted. For example, the judgment did not specify whether it denied a preliminary or permanent injunction; although presumably it is a denial of a preliminary injunction as the trial court had not previously ruled upon same. Additionally, the trial court judgment stated that Mr. Beaulieu was not entitled to damages and then denied his petition. However, the record reveals that the trial court scheduled a Rule to Show Cause regarding Autocrat’s exceptions of no cause of action and no right of action, which would dismiss Mr. Beaulieu’s petition, on July 20, 2016, for September 1, 2016. Both the scheduling date and actual hearing date followed the issuance of the July 15, 2016 judgment. This connotes that the trial court believed Mr. Beaulieu’s petition remained before it in some capacity.

Because the judgment lacks this crucial decretal language, Mr. Beaulieu “is not entitled as of right to appellate review, but may nonetheless invoke our supervisory jurisdiction, which is discretionary with us to grant.” *Mid City Holdings, L.L.C.*, 14-0506, p. 3, 151 So. 3d at 910. We decline to exercise our supervisory jurisdiction in this matter due to the lack of certainty regarding the

judgment appealed. To review with our supervisory jurisdiction would require assumption and supposition. Accordingly, Mr. Beaulieu's appeal is dismissed.

DECREE

For the above-mentioned reasons, we find that the trial court's judgment lacks necessary decretal language regarding the relief granted. As such, Mr. Beaulieu's appeal is dismissed.

APPEAL DISMISSED