The South Carolina Court of Appeals

James Piotrowski, deceased, by and through his Personal Representative Tracey L. Piotrowski and Tracey L. Piotrowski, individually, Plaintiffs,

v.

Richard K. Santee, Carolyn Santee, and Brays Island Plantation Colony, Inc., Defendants,

Of whom Brays Island Plantation Colony, Inc. is Appellant,

And Richard K. Santee and Carolyn Santee are Respondents.

Appellate Case No. 2014-002396

ORDER

Appellant served and filed a notice of appeal from an order that approves a partial settlement between the plaintiffs and two of the defendants—Richard K. Santee and Carolyn Santee—and dismisses the Santees with prejudice. Appellant also appeals the trial court's denial of its motion to disapprove the settlement or require the Santees to remain defendants in the lawsuit. The Santees filed a motion to dismiss this appeal, arguing (1) Appellant lacks standing to appeal because it is not an aggrieved party, and (2) the orders are not immediately appealable. After careful consideration of the parties' filings, we grant the motion to dismiss for both reasons.

First, we dismiss this appeal because Appellant is not an aggrieved party. "Only a party aggrieved by an order, judgment, sentence or decision may appeal." Rule 201(b), SCACR. "A party is aggrieved by a judgment or decree when it operates on his or her rights of property or bears directly on his or her interest." *Beaufort*

Realty Co. v. Beaufort Cnty., 346 S.C. 298, 301, 551 S.E.2d 588, 589 (Ct. App. 2001). In the context of standing to appeal, the term "aggrieved" refers to a substantial grievance, a denial of some personal or property right, or the imposition on a party of a burden or obligation. *N. Am. Rescue Prods., Inc. v. Richardson*, 396 S.C. 124, 134, 720 S.E.2d 53, 59 (Ct. App. 2011).

Appellant argues it has standing to appeal the orders dismissing the Santees from the action because the effect of the orders could potentially preclude Appellant from listing the Santees on the verdict form or receiving set-off from the Santees. This argument is without merit. Appellant may still ask the trial court to list the Santees on the verdict form. Furthermore, it has not yet been found liable for any damages and thus its set-off claim is not ripe. *See Beaufort Realty*, 346 S.C. at 302-03, 551 S.E.2d at 590 (stating a party is not aggrieved where it "merely fear[s] the prospect of future harm" of a "purely conjectural and hypothetical" injury). If Appellant is found liable and ordered to pay damages, Appellant may then seek a set-off in equity. If it receives an adverse ruling, it will then have standing to appeal the set-off ruling. *See* S.C. Code Ann. § 15-38-50 (2005) ("When a release . . . is given in good faith to one of two or more persons liable in tort for the same injury or the same wrongful death . . . it does not discharge any of the other tortfeasors from liability for the injury or wrongful death unless its terms so provide, but it reduces the claim against the others to the extent of any amount stipulated by the release . . . , or in the amount of the consideration paid for it, whichever is the greater . . . ."); *Rutland v. S.C. Dep't of Transp.*, 400 S.C. 209, 216, 734 S.E.2d 142, 145 (2012) ("A non-settling defendant is entitled to credit for the amount paid by another defendant who settles for the same cause of action."); *Knight v. Autumn Co.*, 271 S.C. 112, 115, 245 S.E.2d 602, 604 (1978) ("This [c]ourt is concerned with correcting errors that have practically wronged the appealing party and where . . . the appeal is prosecuted by a party who is not aggrieved in a legal sense by the order below, it becomes [this court's] duty to reject that appeal.").

Second, we dismiss this appeal because the underlying orders are not immediately appealable. This court strictly construes its appellate jurisdiction and generally hears appeals only after a final judgment has been entered. *See Hagood v. Sommerville*, 362 S.C. 191, 194-95, 607 S.E.2d 707-08 (2005). We must dismiss an appeal if the order does not fall under section 14-3-330 of the South Carolina Code (1976) or a specialized statute authorizing the appeal. *See Tatnall v. Gardner*, 350 S.C. 135, 137, 564 S.E.2d 377, 379 (Ct. App. 2002) ("Absent some 'specialized statute,' this [c]ourt is not permitted to hear a case on appeal not comporting with the requirements of [sections 14-3-330(1) and (2)]). Section 14-

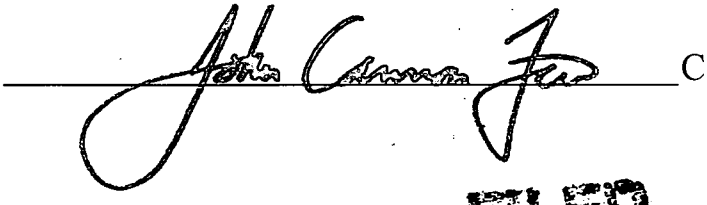
3-330 controls this court's analysis because there is no "specialized statute" in this context. Section 14-3-330 provides:

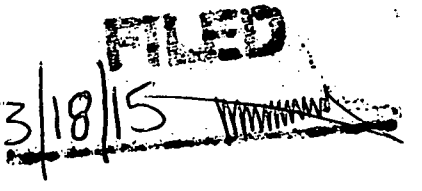
> The Supreme Court shall have appellate jurisdiction for correction of errors of law in law cases, and shall review upon appeal:
>
> (1) Any intermediate judgment, order or decree in a law case involving the merits . . . ;
>
> (2) An order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment form which an appeal might be taken or discontinues the action . . . .

"The provisions of section 14-3-330 . . . have been narrowly construed, and the immediate appeal of orders issued before or during trial generally has not been permitted." *State v. Wilson*, 387 S.C. 597, 601, 693 S.E.2d 923, 925 (2010).

Initially, we note the orders approving the partial settlement and denying Appellant's motion to disapprove the settlement are not final orders because they leave something more to be done before a final judgment may be entered in the case. *See Ex parte Wilson*, 367 S.C. 7, 12, 625 S.E.2d 205, 208 (2005) ("Any judgment or decree, leaving some further act to be done by the court before the rights of the parties are determined, is interlocutory and not final."). Furthermore, the orders are not immediately appealable pursuant to section 14-3-330 because they neither involve the merits nor affect a substantial right. Appellant retains the opportunity to contest damages at trial and thereafter seek a set-off in equity if a final judgment is rendered against Appellant. *See Ex parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 7, 630 S.E.2d 464, 467 (2006) ("An order 'involves the merits,' as that term is used in [s]ection 14-3-330(1)[,] and is immediately appealable when it finally determines some substantial matter forming the whole or part of some cause of action or defense."); *Peterkin v. Brigman,* 319 S.C. 367, 368, 461 S.E.2d 809, 810 (1995) (stating that for an order to be appealable under section 14-3-330(2), the order must involve a substantial right and prevent a judgment from which an appeal may be taken). Only after entry of a final judgment and subsequent adverse rulings on any post-trial motions will Appellant have standing as an aggrieved party to immediately appeal the set-off issue.

Accordingly, Respondent's motion to dismiss is granted because Appellant lacks standing at this time to appeal the orders and orders are not immediately appealable.


C.J.



Columbia, South Carolina

cc: Christian Stegmaier, Esquire
Jerome Bennett Crites, III, Esquire
David Cooper Cleveland, Esquire
William E. Applegate, IV, Esquire
Andrew John Savage, III, Esquire