Ignoring Trial Court Orders May Disentitle a Party to Appellate Review

By: Robin Mashal


Gwartz was a dispute arising out of a real estate transaction. Michael Weilert, M.D. and his wife (“Defendants”) sold a residential property sitting on a 15-acre parcel of land to Brian Gwartz and his wife (“Plaintiffs”). Plaintiffs sued Defendants for fraud, claiming misrepresentations in the real estate transfer disclosure statements. The jury returned a verdict in favor of Plaintiffs for $1,553,800, including $850,000 in punitive damages, and the trial court entered judgment on that.

During the judgment debtor’s examination, Defendants testified about funds held in their family limited partnership’s bank account. At Plaintiffs’ request, the court issued a freeze order restraining Defendants and their affiliated entities from disposing of their assets. Later, the court also ordered Defendants and the entities to turnover certain assets to the levying officer, and ordered payments due Defendants and the entities assigned to the Plaintiffs.

Defendants violated the trial court’s freeze order by making various transfers of their assets. Then, Defendants filed petition for bankruptcy protection, and also appealed the trial court judgment. Plaintiffs brought motion to dismiss the appeal based on the disentitlement doctrine. Under the disentitlement doctrine, an appellate court has the inherent power to dismiss an appeal by a party that refuses to comply with the orders of this state’s courts.

The Gwartz court granted Plaintiffs’ motion to dismiss; Defendants cannot seek the benefits of appeal while acting in contempt of trial court’s valid orders and frustrating Plaintiffs’ enforcement of judgment efforts.

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