

NOTICE

The text of this order may be changed or corrected prior to the time for filing of a Petition for Rehearing or the disposition of the same.

2013 IL App (1st) 113805-U

FOURTH DIVISION
January 31, 2013

No. 1-11-3805

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

YELLOW BOOK SALES AND DISTRIBUTION,)	Appeal from the
INC.,)	Circuit Court of
Plaintiff-Appellee and)	Cook County.
Cross-Appellant,)	
)	
v.)	No. 11L4336
)	
YOUR DOC, S.C. and HASAN MERCHANT,)	The Honorable
Defendants-Appellants.)	John C. Griffin
Cross-Appellees.)	Judge Presiding.

PRESIDING JUSTICE LAVIN delivered the judgment of the court.
Justices Epstein and Pucinski concurred in the judgment.

SUMMARY ORDER

¶ 1 This appeal and cross-appeal arise from a contractual dispute between plaintiff Yellow Book Sales and Distribution Company, Inc. ("Yellow Book") and defendants Your Doc, S.C. and Hasan Merchant. Defendants moved for a stay of proceedings three months after the trial court entered a final judgment against them. On appeal, defendants challenge the final judgment as well as the subsequent partial denial of their motion for a stay. In addition, Yellow Book cross-appeals from the order partially granting defendant's motion for a stay and the trial court's subsequent denial of Yellow Book's motion to vacate that order. We need not reach the merits of this appeal, because it is manifestly clear that this court has no jurisdiction to hear this case. We

No. 1-11-3805

review jurisdictional questions *de novo*. *Geisler v. Everest National Insurance Co.*, 2012 IL App (1st) 103834, ¶ 44.

¶ 2 The parties entered into a settlement agreement, which the trial court memorialized in an agreed order entered on August 2, 2011. On September 21, 2011, the trial court entered a final judgment against defendants after they failed to comply with the parties' settlement agreement. Although a clerical error in that judgment order misidentified plaintiff as "P.L.I. International Inc.," the record clearly shows that the court awarded Yellow Book \$74,088.00 plus costs, notwithstanding defendants' present denial that any judgment was entered in favor of Yellow Book. Accordingly, defendants had 30 days to file a post-judgment motion, until October 19, 2011, or the trial court would be divested of jurisdiction. *Blazyk v. Daman Express, Inc.*, 406 Ill. App. 3d 203, 206 (2010). On October 5, 2011, defendants filed a motion to reconsider or vacate the judgment. Defendants appear to have withdrawn their motion, however, on October 18, 2011. Accordingly, the motion had no effect. The supreme court subsequently denied defendants' motion for a supervisory order in November 2011. It appears that defendants refiled their motion to reconsider on December 13, 2011, more than 30 days after the final judgment, but Yellow Book represents that following the filing of this appeal, that motion has also been withdrawn.

¶ 3 Notwithstanding the absence of a motion to reconsider that would have extended the trial court's jurisdiction beyond October 19, 2011, defendants, on December 20, 2011, filed a motion to stay the proceedings based upon a bankruptcy petition previously filed by Merchant. On December 28, 2011, the trial court, apparently unaware that a prior judge had earlier ruled

No. 1-11-3805

that Merchant's bankruptcy petition could not operate to discharge this particular debt because it was incurred *after* Merchant had filed for bankruptcy, granted the motion to stay as to Merchant but denied it as to Your Doc, S.C. Yellow Book has provided proof to this court that it *did* not receive notice of that motion and order until after it was entered.

¶ 4 Defendants have not cited any authority providing the trial court with jurisdiction to rule on its motion to stay long after the court had been divested of jurisdiction. See Ill. S. Ct. R. 341(h)(7) (eff. July 1, 2008); *Country Mutual Insurance Co. v. Styck's Body Shop, Inc.*, 396 Ill. App. 3d 241, 254-55 (2009) (the appellate court is not a depository onto which a litigant can dump the burden of research). In addition, if a trial court lacks jurisdiction, the parties cannot confer jurisdiction on the appellate court merely by filing a notice of appeal. *Baker v. Harper*, IL App (3d) 110343, ¶ 12. Nonetheless, defendants filed a notice of "interlocutory appeal" from the trial court's ruling on the motion to stay proceedings, even though one of them, namely Merchant, improperly benefitted from the order, and despite the fact that the court's final judgment in favor of Yellow Book had been entered some three months earlier, relying on Illinois Supreme Court Rule 307(a)(1) (Feb. 26, 2010). Defendants' notice of appeal could not have provided this court with jurisdiction to review the merits of the trial court's order entered without jurisdiction. Thus, we vacate the trial court's order entered on December 28, 2011, and dismiss defendants' appeal. See *Koulogeorge v. Campbell*, 2012 IL App (1st) 112812, ¶ 39 (vacating the trial court's decision and dismissing the appeal where neither the trial court nor the appellate court had jurisdiction); *People v. Hood*, 387 Ill. App. 3d 380, 387 (2008) ("A trial court ruling that is made without subject matter jurisdiction is void, and the remedy on appeal would be to vacate the trial court's

No. 1-11-3805

ruling and dismiss the appeal.")

¶ 5 In light of our determination that the trial court's ruling on defendants' motion to stay proceedings must be vacated, Yellow Book's cross-appeal seeking relief from that ruling, and the subsequent denial of Yellow Book's motion to vacate that ruling, has been rendered moot. *In re Nicholas L.*, 407 Ill. App. 3d 1061, 1070 (2011) (an appeal is moot when it impossible for the reviewing court to grant the appellant effectual relief).

¶ 6 For the foregoing reasons, we vacate the trial court's order, dismiss defendants' appeal, and dismiss Yellow Book's cross-appeal. This order is entered in accordance with Illinois Supreme Court Rule 23(c) (1), (2) (eff. Jan. 1, 2011).

¶ 7 Order Vacated; appeal dismissed; cross-appeal dismissed.

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

YELLOW BOOK SALES AND DISTRIBUTION, INC.,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee and	)	Cook County.
Cross-Appellant,	)	
	)	
v.	)	No. 1-11-3805
	)	
YOUR DOC, S.C. and HASAN MERCHANT,	)	
Defendants-Appellants.	)	
Cross-Appellees.	)	

ORDER

This cause coming to be heard on the motion of Yellow Book Sales and Distribution, Inc. to impose sanctions in the amount of \$38,005.53 on appellants Your Doc, S.C., and Hasan Merchant, as well as their attorney Paul Caghan, the Court being fully advised in the premises;

IT IS HEREBY ORDERED that the motion is granted in light of appellants' conduct in filing a frivolous appeal to cause unnecessary delay and increase the cost of litigation where this court lacks jurisdiction over this matter. Ill. S. Ct. R. 375 (eff. Feb. 1, 1994). Appellants and their attorney will be held jointly and severally liable for the above amount.

ORDER ENTERED

JAN 31 2013

APPELLATE COURT, FIRST DISTRICT



