

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2021-051550

05/11/2023

HONORABLE MELISSA IYER JULIAN

CLERK OF THE COURT  
A. Delgado  
Deputy

COTTONFIELDS COMMUNITY  
ASSOCIATION

TROY B STRATMAN

v.

R C P SOUTHERN RIDGE L L P

ASHA SEBASTIAN

JUDGE JULIAN

**RULING**

**Re: Plaintiff's Motion to Vacate Order Granting Stipulation for Dismissal of Lawsuit  
Without Prejudice, filed April 5, 2023.**

This Court has considered Plaintiff's Motion to Vacate Order Granting Stipulation for Dismissal of Lawsuit Without Prejudice, filed April 5, 2023. After considering what the parties have submitted, the court has concluded that the issue presented has been fully briefed and oral argument will not assist a decision. *See* Maricopa Cty. Loc. R. 3.2(d). On March 21, 2023, Plaintiff's prior counsel signed a stipulation to dismiss this matter without prejudice on the ground that defendant RCP Southern Ridge LLP no longer owns the property subject to the August 2021 judgment and April 2022 sanctions order. The Court granted the stipulation and entered the dismissal order on March 29, 2023.

Pursuant to Rule 60(b)(6), Plaintiff now moves to vacate that dismissal order. It asserts that its prior counsel signed the stipulation without Plaintiff's consent and shortly before Plaintiff retained new counsel. Further, Plaintiff seeks to vacate the dismissal order because the new property owner (Laveen 140, LLC) is allegedly violating the terms of the August 2021 Judgment and April 2022 sanctions order. Rule 60(b)(6) permits the court to "relieve a party or its legal representative from a final judgment, order or proceeding" for "any other reason justifying relief"

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2021-051550

05/11/2023

apart from the first five subparts of the rule. In determining whether relief should be granted, this Court has “extensive discretion” and must be mindful that our procedural rules should be construed in favor of “resolution[s] on the merits.” *Gonzalez v. Nguyen*, 243 Ariz. 531, 534 (2018). Thus, “if the trial court has doubt about whether to vacate a[n] . . . order it should rule in favor of the moving party.” *Id.*

The Court finds that Rule 60(b)(6) relief is warranted. A final judgment was entered on August 3, 2021, pursuant to Rule 54(c). That judgment imposed a permanent and continuing injunction against Defendant RCP regarding its maintenance of the golf course property. Once a final judgment was entered, the only method by which that order could be vacated or modified would have been by appeal, by a stipulation to vacate or modify it, or by a Rule 60(b) motion. Instead, the parties here (and apparently without Plaintiff’s consent), stipulated to dismiss the case “without prejudice.” The Court granted the stipulation, but in so doing the court erred.

At the time the dismissal order was entered, there was nothing to dismiss because the claims asserted in the lawsuit had already been resolved in a final, unappealed Rule 54(c) judgment. The later proceedings in 2022 were post-judgment enforcement proceedings and did not revive the claims already adjudicated. In short, the dismissal order was ineffective because it did not vacate the prior August 2021 judgment or the sanctions ruling from April 2022 arising therefrom. It also conflicts with the existing, continuing injunctive order that remains in effect. Under these unusual circumstances, relief under Rule 60(b)(6) is appropriate.

Both Plaintiff and RCP agree RCP should be removed as a party to this matter given that it no longer owns the property. But a “dismissal” is not the proper remedy under these circumstances. Rather, the parties should move for a substitution of Laveen 140, LLC as a successor defendant pursuant to Rule 25(c) so that any further enforcement proceedings as to the continuing injunction may be pursued against the proper defendant. Because no such motion has been filed, the Court will not order a substitution unless and until a motion compliant with Rule 25(c) is filed and the proposed party to be substituted has been served and afforded an opportunity to respond.

In the interim, and pursuant to Rule 60(b)(6), the Court vacates the Order of Dismissal, entered March 29, 2023.



---

HONORABLE MELISSA IYER JULIAN  
JUDICIAL OFFICER OF THE SUPERIOR COURT