

Circuit Court for Montgomery County
Case No. 465818V

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 0134

September Term, 2020

YORDANOS HABTEMARIAM

v.

MOHAMMAD NEDA

Friedman,
Gould,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zarnoch, J.

Filed: March 18, 2021

*This is an unreported opinion and therefore may not be cited either as precedent or as persuasive authority in any paper, brief, motion, or other document filed in this Court or any other Maryland court. Md. Rule 1-104.

The Court dismisses this appeal as moot for the reasons stated below.

FACTS AND PROCEEDINGS

Following a rupture in their personal and business relationships, appellant Yordanos Habtemariam, in April of 2019, brought a damage action against appellee Mohammed Neda in the Circuit Court for Montgomery County. Neda answered and filed a counterclaim against Habtemariam seeking damages for abuse of process.

After she answered, the case took a turn in a different direction, as Neda, on January 3, 2020, filed a motion for a preliminary injunction to halt Habtemariam's alleged interference with his operation of Yordi's Dollar Plus Food Store in Oxen Hill. Not to be outdone, twelve days later, Habtemariam filed her own motion for preliminary injunction to prevent Neda from entering or coming within 50 feet of the Oxen Hill store and to order him to pay \$7,500 within ten days.

On March 11, 2020, the circuit court held a hearing on both motions and, at the conclusion of the proceedings, the circuit judge announced that he was granting Neda's motion and denying Habtemariam's. The preliminary injunction was embodied in a separate order.¹

¹ Apparently, the denial of Habtemariam's motion for preliminary injunction was not the subject of a separate order. Given our disposition of this appeal, we need not address the significance of this apparent omission.

On March 24, 2020, Habtemariam appealed. In her brief, Habtemariam attacked the granting of the preliminary injunction in favor of Neda and the denial of her request for a preliminary injunction.

After the case was fully briefed, Neda’s counsel, on February 12, 2021 filed a Line stating that on January 8, 2021, the circuit court granted Neda’s motion for summary judgment and dismissed Habtemariam’s case with prejudice. Neda’s motion for voluntary dismissal of his counterclaim was granted and the counterclaim was dismissed without prejudice. Finally, the court ordered that “this case shall be removed from the court’s docket and closed.” As far as we have been able to determine, no appeal was taken from this final judgment.

On February 20, 2021, this Court *sua sponte* issued an order stating that “[o]rdinarily, upon the entry of a final judgment ... an interlocutory injunction is ‘dissolved by operation of law,’ *General Motor Corp. v. Miller Buick, Inc.*, 56 Md. App. 374, 386 (1983),” and directing the parties to show cause why the appeal should not be dismissed as moot.

That same day, Neda’s counsel filed a response stating that “the instant appeal is moot and this matter should properly be dismissed.” Habtemariam has not filed a response to the show cause order.

DISCUSSION

Maryland caselaw provides that upon the entry of a final appealable judgment, a preliminary or interlocutory injunction is regarded as “dissolved by operation of law.”

General Motors Corp., 56 Md. App. at 386. Some authorities state the rule broader, saying that a preliminary injunction “may not extend beyond the life of the lawsuit.” 14A Cyc. Of Fed. Proc. Sec. 73:57 (3d ed.) The *General Motors* case also says that a preliminary injunction may not be granted or continued after a determination on the merits. 56 Md. App. at 386.

Even though Neda’s voluntary dismissal of his counterclaim is not a final disposition on the merits, *Baltimore & Ohio R. Co. v. Equitable Bank, N.A.*, 77 Md. App 320, 328 (1988), it would not continue the March 11, 2020 preliminary injunction, because “[s]uch a voluntary dismissal vitiates and annuls all prior proceedings and orders in a case.” *Id.* Thus, Habtemariam’s appeal of the granting of the preliminary injunction in Neda’s favor is now moot. Also moot is her appeal of the denial of her motion for a preliminary injunction, because her underlying action has been dismissed on the merits, and a preliminary injunction may not be granted after such a dismissal. *General Motors*, *supra*, 56 Md. App. at 386.

**APPEAL DISMISSED AS MOOT. COSTS
TO BE PAID BY APPELLANT.**