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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

SUZANNA CHEN,

Plaintiff and Appellant,

v.

BANK OF AMERICA, N.A.,

Defendant and Respondent.

B256237

(Los Angeles County
Super. Ct. No. BC526758)

APPEAL from an order of the Superior Court of Los Angeles County,
Michael Stern, Judge. Dismissed.

Suzanna Chen, in pro.per., for Plaintiff and Appellant.

Reed Smith, Michael Gerst and Myles A. Lanzone, for Defendant and
Respondent.

Suzanna Chen purports to appeal from an order sustaining respondent Bank of America's demurrer to her complaint without leave to amend. She represents that the order was entered on May 6, 2014, three days before she filed her notice of appeal. Appellant's representation is inaccurate, and her appeal must be dismissed as untimely.¹

The relevant procedural history is as follows: On February 4, 2014, the trial court sustained respondent's demurrer to appellant's complaint as barred by res judicata. Two days later, appellant filed a motion for reconsideration of the order sustaining the demurrer. Before the motion was heard, a judgment of dismissal was entered on February 21, 2014. On February 28, 2014, respondent mailed a notice of entry of the judgment to appellant's address of record.

On April 16, 2014, respondent filed an opposition to appellant's motion for reconsideration, arguing, among other things, that the court lacked jurisdiction to consider the motion following entry of judgment. The court nevertheless heard the motion on May 6, 2014 and denied it for lack of "new facts [or] law." On May 9, 2014, appellant filed a notice of appeal from the "order denying motion for reconsideration of order dismissing case on 2/27/2014."²

The order referenced in the notice of appeal is not appealable. An order denying a motion for reconsideration is reviewable only on an appeal from the underlying order. (Code Civ. Proc., § 1008, subd. (g); *Tate v. Wilburn* (2010) 184 Cal.App.4th 150, 159.) Liberally construing the notice of appeal as referencing the order sustaining the demurrer and the judgment of dismissal of respondent cannot save the appeal. A notice of appeal must be filed within 60 days of service of notice of entry of judgment. (Cal. Rules of

¹ On October 22, 2015, we vacated submission and issued an order to show cause regarding dismissal. The parties did not respond.

² The date listed in the notice of appeal does not match any relevant order. Respondent represents that on February 27, 2014, the court dismissed two other defendants, 21st Mortgage Corporation and GMAC Mortgage, neither of which is a party to this appeal. The case summary included in the clerk's transcript confirms that an order to show cause regarding dismissal for failure to serve those two defendants was the only matter heard in this case on that date.

Court, rule 8.104(a)(1)(B).) Appellant was served with a notice of entry of judgment on February 28, 2014; the last day to file a notice of appeal was April 29, 2014. Appellant filed her notice of appeal on May 9, 2014.

Appellant’s motion for reconsideration did not extend the time to appeal. While a valid motion to reconsider an appealable order normally provides such an extension (Cal. Rules of Court, rule 8.108(e)), a motion filed before, but heard after entry of judgment does not. In that situation, the trial court loses jurisdiction to rule on the motion. (*Safeco Ins. Co. v. Architectural Facades Unlimited, Inc.* (2005) 134 Cal.App.4th 1477, 1482.)

The time for appeal is jurisdictional—once it expires, we have no authority to entertain the appeal and must dismiss it. (Cal. Rules of Court, rule 8.104(b) [“[N]o court may extend the time to file a notice of appeal. If a notice of appeal is filed late, the reviewing court must dismiss the appeal”].)

DISPOSITION

The appeal is dismissed.

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EPSTEIN, P. J.

We concur:

WILLHITE, J.

MANELLA, J.