

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

INTERNATIONAL REFORMED  
UNIVERSITY & SEMINARY et al.,

Plaintiffs and Respondents,

v.

KYU MAN LEE et al.,

Defendants and Appellants.

B272409

(Los Angeles County  
Super. Ct. No.  
BC496816)

APPEAL from a judgment of the Superior Court of Los Angeles County, Yvette Palazuelos, Judge. Dismissed.

Se Heung Pyo, in pro. per.; Kyu Man Lee, in pro. per.; Hee Chun Won, in pro. per.; Jong Hyun Park, in pro. per.; and No Chol Park, in pro. per., for Defendants and Appellants.

Law Offices of Gregory M. Lee, Gregory M. Lee; Law Offices of Mary Lee, Mary Lee; Esner, Chang & Boyer, Andrew N. Chang and Joseph S. Persoff for Plaintiffs and Respondents.

Defendants Se Hueng Pyo, Kyu Man Lee, Hee Chun Won, Jong Hyun Park, and No Chol Park appeal from a judgment following a court trial. We dismiss the appeal as untimely.

---

## **PROCEDURAL HISTORY**

Plaintiffs Hun Sung Park and International Reformed University and Seminary (IRUS) filed a complaint on December 4, 2012 against defendants for libel, invasion of privacy by intrusion into private matters, invasion of privacy by false light publicity, and intentional infliction of emotional distress. A court trial was held from March 9 to March 18, 2015. IRUS was dismissed without prejudice. Following trial, the court found for plaintiff Park as to the first, third, and fourth causes of action against each defendant, and for defendants as to the second cause of action. A judgment was entered on November 23, 2015.

The superior court clerk served defendants with notice of entry of judgment on November 23, 2015. On December 30, 2015, defendants filed a “[r]equest (for re-examination of issues in the same court after trial and decision by court[.])” The trial court construed the December 30, 2015 motion as one for new trial pursuant to Code of Civil Procedure section 657. On February 2, 2016, the trial court denied the motion for new trial as untimely under Code of Civil Procedure section 659.

On February 9, 2016, defendants filed a motion entitled “Request for Granting the Motion for New Trial after the Hearing.” The trial court construed the February 9, 2016 motion as one for reconsideration and denied it on February 17, 2016.

On February 18, 2016, defendants moved again for reconsideration of the motion for new trial.

On May 23, 2016, defendants filed their notice of appeal. The notice of appeal identified an appeal from: the November 23, 2015 judgment; the February 2, 2016 denial of the motion for new trial; and a June 14, 2016 ruling.

Based on the record, it appears that the June 14, 2016 hearing concerned defendants' second motion for reconsideration. The June 14, 2016 hearing had yet to occur at the time defendants noticed their appeal.<sup>1</sup>

### **DEFENDANTS' APPEAL IS UNTIMELY**

A notice of appeal must be filed within 60 days after the superior court clerk serves on the party filing the notice of appeal a document entitled "notice of entry" of judgment. (Cal. Rules of Court, rule 8.104(a)(1)(A).) Here, the court clerk served notice of entry of judgment on the parties on November 23, 2015. Accordingly, the deadline for filing the notice of appeal expired on January 22, 2016.

---

<sup>1</sup> On July 26, 2016, the trial court denied the second motion for reconsideration.

The trial court's power to rule on a motion for new trial expired 60 days from the mailing of the notice of entry of judgment (Code Civ. Proc., § 660), namely, January 22, 2016. Because both reconsideration motions were filed after January 22, 2016, the trial court lacked jurisdiction to reconsider the motion for new trial. (*Jones v. Sieve* (1988) 203 Cal.App.3d 359, 370.)

Defendants' December 30, 2015 filing of motion for new trial did not extend the deadline for filing a notice of appeal. Where a party files a valid motion for new trial, the time to appeal is extended until the earliest of: (1) 30 days after the superior court clerk or party serves an order denying the motion or notice of entry of the order; (2) 30 days after the denial of the motion by operation of law; or (3) 180 days after entry of judgment. (Cal. Rules of Court, rule 8.108(b).) But this extension only applies if the motion for new trial is timely filed. (*Ramirez v. Moran* (1988) 201 Cal.App.3d 431, 435-437 [discussing earlier version of Cal. Rules of Court, rule 8.108(b)].)

A motion for new trial must be filed within 15 days of the date of the mailing of the notice of entry of judgment. (Code Civ. Proc., § 659, subd. (a)(2)). Here, defendants were required to file their notice of intent to move for new trial by December 8, 2015, that is, 15 days from November 23, 2015. Defendants, however, untimely filed the motion on December 30, 2015. There was no valid motion for new trial and thus no applicable extension of the appeal deadline.<sup>2</sup>

---

<sup>2</sup> Even if defendants had filed a valid motion for new trial, their notice of appeal would still be untimely. An extension would have granted defendants only until February 22, 2016 to file their notice of appeal. Pursuant to California Rules of Court, rule 8.108(b)(1)(B), the earliest of the three possible extension deadlines would have been 30 days after denial of the motion by operation of law, which, as noted, was January 22, 2016. (Cal. Rules of Court, rule 8.108(b)(1)(B).) Because 30 days from that date was a Sunday, February 21, 2016, the notice of appeal deadline would have been extended only to February 22, 2016. (Code Civ. Proc., § 12a, subd. (a).)

Finally, defendants' numerous reconsideration motions did not extend the deadline for filing a notice of appeal. An extension of the appeal deadline applies only "[i]f any party serves and files a valid motion to reconsider an *appealable* order . . . ." (Cal. Rules of Court, rule 8.108(e), italics added.) An order denying a motion for new trial is not directly appealable. (*Walker v. Los Angeles County Metropolitan Transportation Authority* (2005) 35 Cal.4th 15, 18.)

The deadline to file defendants' notice of appeal was 60 days from the entry of judgment, that is, January 22, 2016. Defendants untimely filed their notice of appeal on May 23, 2016. Accordingly, we must dismiss the appeal. (Cal. Rules of Court, rule 8.104(b).) We need not discuss issues concerning the adequacy of the record.

## DISPOSITION

The appeal is dismissed. Plaintiffs are entitled to recover their appellate costs from defendants.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

KIM, J.\*

We concur:

KRIEGLER, Acting P.J.

BAKER, J.

---

\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.