NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

NI MADE JATI,
 	
    Plaintiff and Appellant,
 	
v.
 	
MICHAEL DONNELLY,
 	
    Defendant and Respondent.
	B233500
	
	(Los Angeles County
	Super. Ct. No.KD073003)

APPEAL from orders of the Los Angeles Superior Court. Susan Lopez-Giss, Judge. Dismissed and affirmed.

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Law Office of Ruben J.L. Salgado, Ruben J.L. Salgado; Law Office of Nanci-Alis Townsend, and Nanci-Alis Townsend for Plaintiff and Appellant.

Kendall & Gkikas, Thomas E. Kendall, and Kristina Kendall-Gkikas for Defendant and Respondent.

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This litigation arises out of the dissolution of the marriage of Ni Made Jati and Michael Donnelly and concerns the two children of that marriage. We need not recount the full course of proceedings in the disputes between Jati and Donnelly because the issues presented on this appeal are very narrow.

On March 19, 2008, Jati filed in the Los Angeles County Superior Court a petition for custody and support of minor children, naming Donnelly as respondent. Jati signed the petition under penalty of perjury. The first page of the petition bore the following handwritten sentences: "The parties were divorced on 2/28/08 in Jakarta, Indonesia. There are no custody orders pertaining to the minor children who reside in California since July 2007." Various documents in the record on appeal indicate that Donnelly and the children are United States citizens but Jati is not. Jati was represented by counsel when she filed the petition and has continued to be represented by counsel throughout the proceedings in the superior court and in this court.

On October 1, 2009, the superior court entered judgment. The judgment awarded sole physical and legal custody of the two minor children to Donnelly. The judgment also imposed monetary sanctions on Jati and was in general unfavorable to her. The judgment explicitly made several determinations concerning the court's jurisdiction, such as (1) the parties had stipulated "that the court had jurisdiction over the children because California was their home state," (2) the court "has jurisdiction to make child custody orders in this case under the Uniform Child Custody Jurisdiction and Enforcement Act," (3) "[t]here were no custody orders pertaining to the minor children" generated by the divorce proceedings in Jakarta, and (4) "[t]he home state and habitual residence of each minor child for all purposes, including interstate and international child custody jurisdiction is California." No party appealed from the judgment.

On June 21, 2010 (after the deadline for appealing from the judgment had passed), Jati filed a motion to "vacate all California court orders and dismiss case." (Block capitals omitted.) In support of the motion, Jati argued that the superior court lacked subject matter jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act.

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On September 23, 2010, the superior court entered an order denying Jati's motion.

On October 1, 2010, Jati filed a motion for "reconsideration/clarification" of the court's order denying the motion to vacate all previous orders and dismiss the case. In support of the motion for reconsideration and clarification, Jati argued only that the court's order of September 23, 2010, did not make clear whether the court had rejected her jurisdictional arguments.

On April 29, 2011, the superior court entered an order denying Jati's motion for reconsideration and clarification.

On May 27, 2011, Jati filed a notice of appeal from "all orders denying her Motion To Vacate All California Court Orders and Dismiss Case and the denial of her Motion For Reconsideration and Clarification of the Court's ruling including but not limited to the Court's order[s] of September 23, 2010 and April 29, 2011 and all other separately appealable orders." The record on appeal reflects that (1) no order before September 23, 2010 denied Jati's motion to vacate all California orders and dismiss the case, (2) no order before April 29, 2011 denied Jati's motion for reconsideration and clarification, and (3) between September 23, 2010 and the filing of the notice of appeal on May 27, 2011, the only orders denying Jati's motion to vacate all California orders and dismiss the case and her motion for reconsideration and clarification were the orders entered on September 23, 2010 and April 29, 2011. Therefore, the orders of September 23, 2010 and April 29, 2011 are the only orders to which the notice of appeal applies.

The order of September 23, 2010 is appealable as an order after judgment, pursuant to Code of Civil Procedure section 904.1, subdivision (a)(2).[1] Jati's notice of appeal from that order, however, was not timely filed. A notice of appeal must be filed within 180 days of entry of the appealable judgment or order. (Cal. Rules of Court, rules 8.104(a)(3) & 8.104(e).) Jati filed her notice of appeal on May 27, 2011, more than

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[1]   All subsequent statutory references are to the Code of Civil Procedure.

180 days after entry of the order of September 23, 2010. We therefore must dismiss the appeal from that order. (Cal. Rules of Court, rule 8.104(b).)

Jati's motion for reconsideration and clarification states that it was brought pursuant to sections 1008 and 473. Insofar as the motion was brought pursuant to section 1008, the order denying the motion is not separately appealable. (§ 1008, subd. (g).) Rather the denial of the motion for reconsideration is "reviewable as part of an appeal from" the order of September 23, 2010. (§ 1008, subd. (g).) But because Jati did not timely appeal from the order of September 23, 2010, there is no appeal from that order, so the denial of reconsideration of that order under section 1008 is not reviewable.

Insofar as Jati's motion for reconsideration and clarification was brought pursuant to section 473, the order denying the motion is appealable. (*Generale Bank Nederland v. Eyes of the Beholder Ltd.* (1998) 61 Cal.App.4th 1384, 1394.) The motion was properly denied, however, because it presented no basis for relief under section 473. Subdivision (a) of section 473 authorizes a court to allow a party to amend a pleading and also authorizes the granting of extensions of time to answer or demur, but Jati's motion for reconsideration and clarification did not seek such relief. Subdivision (b) of section 473 authorizes a court to relieve a party or counsel of the consequences of their own mistake, inadvertence, surprise, or excusable neglect, but Jati's motion for reconsideration and clarification made no claim of mistake, inadvertence, surprise, or excusable neglect. Subdivision (c) of section 473 deals with certain ancillary matters if a court has granted relief from a default, default judgment, or dismissal; that provision is inapplicable because the court did not grant such relief in this case. And subdivision (d) of section 473 authorizes the court to correct clerical errors and to set aside void judgments or orders, but Jati did not argue in her motion for reconsideration and clarification that the order of September 23, 2010 contained clerical errors or was void. Rather, she merely argued that the order of September 23, 2010 failed to make clear whether the court had rejected her jurisdictional arguments. We conclude that the motion for reconsideration and clarification presented no basis for relief under section 473.

Jati's appellate briefs contain no argument to the contrary. Indeed, her briefs never mention section 473.

For all of the foregoing reasons, we must affirm the order of April 29, 2011.

<div align="center">DISPOSITION</div>

The appeal from the order of September 23, 2010 is dismissed. The order of April 29, 2011 is affirmed. Respondent shall recover his costs of appeal.

<u>NOT TO BE PUBLISHED</u>.

ROTHSCHILD, J.

We concur:

MALLANO, P. J.

CHANEY, J.