

No. 1-18-0749

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

SREEDEVI DAMARLA, an Individual, and)	Appeal from the
PRIYANKA DAMARLA, an Individual,)	Circuit Court of
)	Cook County
Plaintiffs-Appellants,)	
)	
)	
v.)	No. 17 L 006936
)	
)	
THYAGARAJA RALLAPALLI, an Individual, and)	
INDUS FOODS CORPORATION, an Illinois)	
Corporation,)	
)	
Defendants,)	
)	Honorable
)	Diane M. Shelley,
(Thyagaraja Rallapalli, Defendant-Appellee).)	Judge, Presiding.

PRESIDING JUSTICE HOFFMAN delivered the judgment of the court.
Justices Cunningham and Connors concurred in the judgment.

ORDER

¶ 1 *Held:* We dismiss the appeal for lack of jurisdiction due to the plaintiffs’ failure to file an interlocutory notice of appeal within 30 days from the entry of the circuit

court's interlocutory order granting the defendant's motion to compel arbitration pursuant to Supreme Court Rule 307(a)(1). Ill. S. Ct. R. 307(a)(1) (eff. Nov. 1, 2017).

¶ 2 The plaintiffs, Sreedevi Damarla and Priyanka Damarla, appeal from orders of the circuit court of Cook County which granted the defendant, Thyagaraja Rallapalli's motion to compel arbitration and which denied the plaintiffs' motion to reconsider the order granting the motion to compel arbitration. For the reasons which follow, we dismiss the appeal.

¶ 3 On September 23, 2014, Sreedevi, Priyanka, Rallapalli, and other investment partners entered into a partnership agreement (Agreement) to purchase property in India. The Agreement contained an arbitration clause in paragraph 21, which provided: "In the event of any dispute concerning the Partner ship [*sic*] or this Deed and/or interpretation and/or enforcement of any of the terms and conditions contained herein the same shall be referred to Arbitration and the Provision of the Indian Arbitration Act shall apply to such proceedings."

¶ 4 On July 11, 2017, the plaintiffs filed a ten-count complaint against the defendants, with Counts VIII and X being relevant to the appeal. In Count VIII, the plaintiffs alleged breach of contract against the defendant for his failure to refund the remaining \$228,643 owed to them for their \$310,882 investment in furtherance of the Agreement. In Count X, and in the alternative to Count VIII, the plaintiffs alleged promissory estoppel against the defendant due to their detrimental reliance on his promise to repay them for their entire investment in the Agreement.

¶ 5 On November 29, 2017, the defendant filed a motion to compel arbitration, requesting that the circuit court order that Counts VIII and X of the complaint be resolved through arbitration pursuant to paragraph 21 of the Agreement. On January 8, 2018, the plaintiffs filed their response in opposition to the motion to compel, arguing that the provision in the Agreement which references arbitration (paragraph 21) is both procedurally and substantively

unconscionable and that the entire Agreement is “illusory and has no legal effect.”

¶ 6 On February 1, 2018, the circuit court granted the defendant’s motion to compel arbitration, finding that the arbitration provision was neither procedurally nor substantively unconscionable.

¶ 7 On February 22, 2018, the plaintiffs filed a motion to reconsider the February 1, 2018 order granting the defendant’s motion to compel arbitration. The plaintiffs presented the same arguments that were resolved during the hearing on the motion to compel arbitration, that the arbitration provision of the Agreement was both procedurally and substantively unconscionable. On March 6, 2018, the circuit court denied the motion to reconsider. The plaintiffs filed their notice of interlocutory appeal on April 4, 2018.

¶ 8 On May 4, 2018, the defendant filed a motion to dismiss for lack of jurisdiction, arguing that because the plaintiffs filed their notice of appeal more than 30 days after entry of the order granting the motion to compel arbitration, and because plaintiffs’ motion to reconsider did not extend the time that they had to appeal the order granting the motion to compel, this court does not have jurisdiction to hear the appeal.

¶ 9 On May 16, 2018, a panel of this court denied the defendant’s motion to dismiss. For the reasons which follow, we believe that the denial of the motion to dismiss was improvident and we vacate that order.

¶ 10 Illinois Supreme Court Rule 307 governs interlocutory appeals as of right. (eff. Nov. 1, 2017). Rule 307(a)(1) provides: “An appeal may be taken to the Appellate Court from an interlocutory order of court: (1) granting, modifying, refusing, dissolving, or refusing to dissolve or modify an injunction.” Ill. S. Ct. R. 307(a)(1) (eff. Nov. 1, 2017). “An order of the circuit court to compel or stay arbitration is injunctive in nature and subject to interlocutory appeal

under paragraph (a)(1) of the rule.” *Salsitz v. Kreiss*, 198 Ill. 2d 1, 11, (2001).

¶ 11 When appealing from an interlocutory order, Rule 307(a) provides that “the appeal must be perfected within 30 days from the *entry of the interlocutory order* by filing a notice of appeal designated ‘Notice of Interlocutory Appeal’ conforming substantially to the notice of appeal in other cases.” (Emphasis added.) Ill. S. Ct. R. 307(a) (eff. Nov. 1, 2017).

¶ 12 In the instant case, the interlocutory order granting the defendant’s motion to compel arbitration was entered on February 1, 2018. Therefore, the plaintiffs had 30 days from February 1, 2018, to file their notice of interlocutory appeal pursuant to Rule 307(a)(1). Ill. S. Ct. R. 307(a)(1) (eff. Nov. 1, 2017). However, instead of filing their notice of interlocutory appeal within the 30-day time period, the plaintiffs filed a motion to reconsider on February 22, 2018. After the denial of their motion to reconsider on March 6, 2018, the plaintiffs then filed their notice of interlocutory appeal on April 4, 2018, more than 60 days after the entry of the interlocutory order granting the defendant’s motion to compel arbitration. “If an order is entered which is immediately appealable under Rule 307, then an appeal must be taken or the right to challenge the ruling will be lost.” *Robert A. Besner and Co. v. Lit America, Inc.*, 214 Ill. App. 3d 619, 626 (1991). “[T]he filing of a motion to reconsider *cannot* extend the deadline for filing civil interlocutory appeals.” (Emphasis added.) *People v. Marker*, 233 Ill. 2d 158, 174 (2009), citing *Craine v. Bill Kay's Downers Grove Nissan*, 354 Ill. App. 3d 1023, 1025–29 (2005), and *Trophytime, Inc. v. Graham*, 73 Ill. App. 3d 335, 335–37 (1979).

¶ 13 Because the plaintiffs did not file their notice of interlocutory appeal within 30 days from the entry of the order granting the defendant’s motion to compel arbitration and because their motion to reconsider did not toll the 30-day time period within which to file their notice of interlocutory appeal, their notice of interlocutory appeal was untimely and we are without

No. 1-18-0749

jurisdiction to hear the matter. *Besner*, 214 Ill. App. 3d at 625-27.

¶ 14 Appeal dismissed.