

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 20-12166
Non-Argument Calendar

D.C. Docket No. 1:20-cv-21882-FAM

FICUS VILLAS CONDO ASSOCIATION, INC.,

Plaintiff-Appellee,

versus

HARTFORD STEAM BOILER INSPECTION AND INSURANCE CO.,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida

(December 29, 2020)

Before JORDAN, GRANT, and LUCK, Circuit Judges.

PER CURIAM:

Hartford Steam Boiler Inspection and Insurance Company appeals the district court's orders: (1) sua sponte remanding this removed case back to state court after Hartford Steam missed its deadline to answer the complaint by three days; and (2) denying its motion for reconsideration of the remand order because the pending appeal mooted the reconsideration motion. Ficus Villas Condominium Association confesses that the district court erred as to both orders, and we agree.

As to the district court's sua sponte remand order, under 28 U.S.C. section 1447(c), a district court can remand a removed case back to state court only if it determines that it lacks subject matter jurisdiction, or if a party moves to remand the case because of a defect in the removal process. See Whole Health Chiropractic & Wellness, Inc. v. Humana Med. Plan, Inc., 254 F.3d 1317, 1319–21 (11th Cir. 2001) (Section 1447(c) “does not authorize any sua sponte remand order not based on subject matter jurisdiction We hold that the district court exceeded its authority under [section] 1447(c) by remanding this case because of a perceived procedural defect in the removal process without waiting for a party's motion.” (emphasis omitted)). Here, the district court had subject matter jurisdiction under 28 U.S.C. section 1332(a), and Ficus Villas did not file a motion to remand. Thus, the district court erred in sua sponte remanding the case. See Yusefzadeh v. Nelson, Mullins,

Riley & Scarborough, LLP, 365 F.3d 1244, 1246 (11th Cir. 2004) (“A court, which has subject matter jurisdiction, may not remand the case sua sponte because there is no valid reason for the court to decline the exercise of jurisdiction. There is no evidence before this court indicating that the district court lacked subject matter jurisdiction; the parties were diverse and the amount in controversy requirement was satisfied. Moreover, the district court itself did not say in its remand order that it lacked subject matter jurisdiction. All other procedural defects associated with the removal, if any, could only have been raised by Yusefzadeh within the allotted time period of 28 U.S.C. [section] 1447(c). Therefore, the district court erred in remanding this case sua sponte.” (quotations omitted)).

As to the district court’s denial of Hartford Steam’s motion for reconsideration, the motion for reconsideration was not moot, as the district court concluded, because the notice of appeal was not “effective” until the district court disposed of the reconsideration motion. See Fed. R. App. P. 4(a)(4)(B)(i) (“If a party files a notice of appeal after the court announces or enters a judgment—but before it disposes of any motion listed in Rule 4(a)(4)(A)—the notice becomes effective to appeal a judgment or order, in whole or in part, when the order disposing of the last such remaining motion is entered.”). By rule, the notice of appeal filed during the pendency of the reconsideration motion was “simply suspended” and the district court “retained jurisdiction to consider” it. See Stansell v. Revolutionary Armed

Forces of Colom., 771 F.3d 713, 745–46 (11th Cir. 2014). The district court erred in finding that Hartford Steam’s pending notice of appeal mooted the reconsideration motion.

We reverse the orders under review and remand for the district court to consider the merits of Hartford Steam’s reconsideration motion.

REVERSED AND REMANDED WITH INSTRUCTIONS.