

Sayta v. Chu (Nov. 29, 2017) 17 Cal. App. 5th 960

The trial court's order denying plaintiff's motion for enforcement of a written settlement under Code Civ. Proc., § 664.6, was void where trial court lacked jurisdiction to entertain motion, as parties failed to request, *before dismissal*, that trial court retain jurisdiction to enforce the settlement, or alternatively seek to set aside the dismissals.

FACTS/PROCEDURE

A series of disagreements over a leased apartment led Shaunak Sayta to file suit against landlords Edmund Chu and Peter Chin in superior court. The parties reached a confidential settlement, providing for the full dismissal of Sayta's action. Paragraph 11 of the agreement provided that parties to the agreement could, pursuant to California Code of Civil Procedure Section 664.6, request that the trial court retain jurisdiction over the action to enforce the settlement. However, neither party made a request before the court dismissed the action in 2015. After the dismissal, Sayta filed a motion under section 664.6 to enforce the settlement, which the court heard and denied. Sayta appeals in this case.

HOLDING/DISCUSSION

Remanded. The order denying Sayta's motion for enforcement of the Agreement is void for lack of subject matter jurisdiction. The matter is remanded to the superior court with directions to vacate the order. Neither party shall recover costs on appeal. A trial court's order denying plaintiff's motion for enforcement of a written settlement pursuant to section 664.6, was void where the trial court lacked jurisdiction to entertain the motion because the parties failed to request, *before dismissal*, that the trial court retain jurisdiction to enforce the settlement, or alternatively seek to set aside the dismissals. Section 664.6 provides that if parties to pending litigation stipulate to settle the litigation then the court, "upon motion, may enter judgment pursuant to the terms of the settlement" and, "*if requested by the parties*," the court "may retain jurisdiction over the parties to enforce the settlement until performance is in full."

Here, in Paragraph 11 the parties agreed that the parties "could request the superior court to retain jurisdiction," and "set aside the dismissal on the request of either party," however, "nothing in the record...indicates that any party did either." As provided in *Wackeen v. Malis*, a request for retention of jurisdiction must occur during the pendency of the case, be made by the parties themselves, and be either made in a signed writing or made orally before the court. Here, because the parties did not communicate any request to the court requesting retention of jurisdiction, the trial court did not have subject matter jurisdiction to entertain a Section 664.6 motion because "it lost such jurisdiction over the case when the last of the requests for dismissal was filed."