NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2017 CA 1660

CHARMANE MANCHESTER

VERSUS

ANPAC LOUISIANA INSURANCE COMPANY, MR. MICHAEL WATSON & MRS. HEATHER DAWN VAN WATSON

Judgment Rendered: JUN 0 1 2018

Appealed from the
Nineteenth Judicial District Court
In and for the Parish of East Baton Rouge, Louisiana
Docket Number C622355

Honorable Todd Hernandez, Judge Presiding

****

Russell W. Beall
William W. Thies
Kenneth A. Doggett, Jr.
Jacob H. Thomas
G. Aaron Humphreys
Baton Rouge, LA

Counsel for Plaintiff/Appellant, Charmane Manchester

Keith L. Richardson
Sean Avocato
Baton Rouge, LA

Counsel for Defendants/Appellees, ANPAC Louisiana Insurance Company, Michael Watson, and Heather Dawn Van Watson

****

BEFORE: WHIPPLE, C.J., McDONALD AND CHUTZ, JJ.

McDonald, J. dissents and will assign reasons.

WHIPPLE, C.J.

This is an appeal from a judgment of the trial court on plaintiff's personal injury claim, rendered after a jury trial. For the following reasons, we dismiss the appeal.

FACTS AND PROCEDURAL HISTORY

On June 17, 2013, plaintiff, Charmane Manchester, filed suit for damages against Michael Watson, Heather Dawn Van Watson, and ANPAC Louisiana Insurance Company, the Watsons' homeowners insurer. In her petition, plaintiff contended that on July 7, 2012, she was injured while at a garage sale on premises owned by the Watsons when, suddenly and without warning, a wooden post supporting the carport fell and struck her, causing her injuries. Plaintiff further averred that her damages were caused by the fault of the Watsons in, among other things, maintaining an unreasonably dangerous condition, failing to warn their guests and patrons of the dangerous condition, failing to properly inspect the wooden posts attached to the carport, and choosing to conduct a garage sale and inviting persons to buy goods in an area where it was not safe to do so.

The matter eventually proceeded to a jury trial on November 28 and 30 and December 1, 2016. Following trial, the jury returned a verdict, finding that the Watsons were the owners and had custody of the post at issue. However, in response to the question of whether it found "by a preponderance of the evidence that the post at issue was defective and created an unreasonable risk of harm to the plaintiff at the time of the accident," the jury answered "no."

By judgment signed March 21, 2017,[1] the trial court ruled as follows:

> Following all testimony, submitted evidence, and argument of counsel, the jury, unanimously found that no unreasonably dangerous condition existed in the premises being the subject of petition, thereby finding favor with the defense and making no award for the plaintiff.
>
> JUDGMENT READ AND RENDERED in open court on this 1st day of December, 2016 and signed in East Baton Rouge, Louisiana on the 21 day of March, [2017].

Following the subsequent August 14, 2017 denial of plaintiff's motion for judgment notwithstanding the verdict, plaintiff filed the instant appeal of the March 21, 2017 judgment. Finding that the judgment is not a final judgment properly before us on appeal, we dismiss the appeal.

DISCUSSION

Appellate courts have the duty to determine *sua sponte* whether their subject matter jurisdiction exists, even when the parties do not raise the issue. Gaten v. Tangipahoa Parish School System, 2011-1133 (La. App. 1st Cir. 3/23/12), 91 So. 3d 1073, 1074. This court's appellate jurisdiction extends only to "final judgments." See LSA-C.C.P. art. 2083(A); Rose v. Twin River Development, LLC, 2017-0319 (La. App. 1st Cir. 11/1/17), 233 So. 3d 679, 683. Under Louisiana law, a final judgment is one that determines the merits of a controversy in whole or in part. LSA-C.C.P. art. 1841. A final judgment must be identified by appropriate language. LSA-C.C.P. art. 1918. Moreover, a valid judgment must be precise, definite, and certain; must contain decretal language; and must name the party in favor of whom the ruling is ordered, the party against whom the ruling is ordered, and the relief that is granted or denied. Gaten, 91 So. 3d at 1074.

[1]Although the judgment is dated March 21, 2016, this was clearly a typographical error, in that the trial took place after that date, in November and December of 2016. Moreover, the record on appeal establishes that the judgment was actually signed on March 21, 2017.

A judgment that does not dismiss the plaintiff's claims and does not contain decretal language is fatally defective and cannot be considered as a final judgment for the purpose of immediate appeal. As such, this court lacks jurisdiction to review such a judgment. See Gaten, 91 So. 3d at 1074; McCarroll v. Prime Cut Lawn Care & Tractor Work, L.L.C., 2012-0456, pp. 6-7 (La. App. 1st Cir. 3/22/13), 2013 WL 1189241 at *3 (unpublished); Jenkins v. Recovery Technology Investors, 2002-1788 (La. App. 1st Cir. 6/27/03), 858 So. 2d 598, 600; and Input/Output Marine Systems, Inc. v. Wilson Greatbatch Technologies, Inc., 10-477 (La. App. 5th Cir. 10/29/10), 52 So. 3d 909, 916.

Turning to the instant case, we are constrained to conclude that the judgment before us does not contain decretal language necessary for final appealable judgments. Rather, it merely recites that the jury found that no unreasonably dangerous condition existed, thereby finding in favor of the defense and making no award to plaintiff. It does not, however, dismiss plaintiff's claims or otherwise contain any decretal language. Thus, the judgment is fatally defective, and this court lacks jurisdiction to review it. See Gaten, 91 So. 3d at 1074; McCarroll, 2012-0456 at p. 7, 2013 WL 1189241 at *4; and Jenkins, 858 So. 2d at 600.

CONCLUSION

For the above and foregoing reasons, the appeal of the trial court's March 21, 2017 judgment is dismissed. Costs of this appeal are assessed against plaintiff/appellant, Charmane Manchester.

APPEAL DISMISSED.

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2017 CA 1660

CHARMANE MANCHESTER

VERSUS

ANPAC LOUISIANA INSURANCE COMPANY,

MR. MICHAEL WATSON & MRS. HEATHER DAWN VAN WATSON

JUN 0 4 2018

McDONALD, J., dissenting.

Although I agree that the March 21, 1017 judgment is defective, I respectively dissent from the majority opinion, because I think we have jurisdiction to remand the case to the district court to issue an amended judgment.

I agree that the judgment lacks appropriate decretal language for two reasons. First, it does not state the relief that is being granted or denied. *See Gros v. STMG Lapeyre, LLC*, 14-0848 (La. App. 1 Cir. 5/6/15), 2015 WL 2169680 (unpublished) (A final appealable judgment must state the specific relief granted and be determinable from the judgment without reference to an extrinsic source.). Second, the judgment does not specifically render judgment in favor of any or all of the three defendants. *See Moore v. Murphy Oil USA, Inc.*, 15-0096 (La. App. 1 Cir. 12/23/15), 186 So.3d 135, 141-42, *writ denied,* 16-00444 (La. 5/20/16), 191 So.3d 1066 (The failure to name the defendant against whom the judgment is rendered in a case with multiple defendants renders a judgment fatally defective, because one cannot discern from its face against whom it is being enforced.)

I disagree, however, that we lack jurisdiction to review the judgment. As this court had done in the past, and in the interest of judicial efficiency, I think this matter should be remanded to allow the district court an opportunity to issue an amended judgment that corrects the decretal language. *See, e.g., Chauncey v. Allen*, 15-0874 (La. App. 1 Cir. 2/26/16), 191 So.3d 25, 28 n.3; *Moore*, 186 So.3d at 141-42; and *Gros* 2015 WL 2169680 at *3-4.