

FILED

APR 24 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: TJ PLAZA, LLC,

Debtor,

TJ PLAZA, LLC; DSWC, INC.,

Plaintiffs-Appellants,

v.

U.S. BANK NA, as Trustee on behalf of
the Registered Holders of Wachovia Bank
Commercial Mortgage Trust, Commercial
Mortgage Pass-Through Certificates,
Series 2003-C6,

Defendant-Appellee.

No. 15-16968

D.C. No. 2:14-cv-02226-GMN

MEMORANDUM*

In re: TJ PLAZA, LLC,

Debtor,

TJ PLAZA, LLC; DSWC, INC.,

Plaintiffs-Appellants,

v.

No. 15-16969

D.C. No. 2:14-cv-02227-GMN

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

U.S. BANK NA, as Trustee on behalf of
the Registered Holders of Wachovia Bank
Commercial Mortgage Trust, Commercial
Mortgage Pass-Through Certificates,
Series 2003-C6,

Defendant-Appellee.

Appeal from the United States District Court
for the District of Nevada
Gloria M. Navarro, Chief Judge, Presiding

Submitted April 18, 2017**
San Francisco, California

Before: THOMAS, Chief Judge, and FERNANDEZ and MURGUIA, Circuit
Judges.

We dismiss these consolidated appeals because the appellants were the prevailing parties in the district court, and there is nothing in the judgment that can be reformed on appeal. “A party may not appeal from a judgment or decree in his favor, for the purpose of obtaining a review of findings he deems erroneous which are not necessary to support the decree.” *United States v. Good Samaritan Church*, 29 F.3d 487, 488 (9th Cir. 1994) (quoting *Elec. Fittings Corp. v. Thomas & Betts Co.*, 307 U.S. 241, 242 (1939)). There is no exception to the general rule here because “[d]eterminations which are immaterial to the judgment below have no

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

preclusive effect on subsequent litigation, especially if they cannot be appealed” and because, “[t]o the extent that the district court order was not favorable to appellants, it does not bind them in subsequent litigation.” *Id.* at 489.

These consolidated appeals are **DISMISSED**.