

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-10133

Non-Argument Calendar

FLA MORTGAGE CAPITAL CORPORATION,

Plaintiff,

NON PERFORMING LLC,

OSLO GROUP LLC,

Plaintiffs-Appellees,

versus

JOHN E. TYRE,

a.k.a. John Edwin Tyre II,

KAY TYRE,

a.k.a. Lanita K. Tyre,

2

Opinion of the Court

24-10133

Defendants-Appellants.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 3:22-cv-01012-BJD-PDB

Before JORDAN, NEWSOM, and BRASHER, Circuit Judges.

PER CURIAM:

Upon review of the record and the responses to the jurisdictional question, this appeal is DISMISSED for lack of jurisdiction. Appellants challenge the December 12 and 13, 2023 order and judgment in this foreclosure action granting the plaintiffs summary judgment and entering judgment against the appellants in the amount of \$256,466.42. However, the December 12 order instructed the plaintiffs to file a proposed final judgment of foreclosure, and the district court has not yet entered that judgment or otherwise foreclosed the plaintiffs' security interest, ordered the sale of the relevant property if the monetary judgment is not paid, or established the terms for any such sale.

Thus, the December 2023 order and judgment are not yet final because there remain outstanding proceedings to fully resolve the plaintiff's complaint for foreclosure. See *CSX Transp., Inc. v. City of Garden City*, 235 F.3d 1325, 1327 (11th Cir. 2000); *Burlington, Cedar Rapid & N. Ry. Co. v. Simmons*, 123 U.S. 52, 54-56 (1887) (explaining

24-10133

Opinion of the Court

3

that, in a foreclosure action, the proceedings are not final if there is no order of sale); *see also Citibank, N.A. v. Data Lease Fin. Corp.*, 645 F.2d 333, 337 (5th Cir. Unit B May 1981). The order and judgment are not appealable under the doctrine of practical finality for the same reasons and because there has not been a showing of irreparable harm. *See Burlington, Cedar Rapid & N. Ry. Co.*, 123 U.S. at 54-56; *Acheron Cap., Ltd. v. Mukamal*, 22 F.4th 979, 991-92 (11th Cir. 2022).