

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

DIANE C. BROWN, NANCY CROOK,
BRENDA HARRISON, and CHARLES
SMITH,

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION AND
DISPOSITION THEREOF IF FILED.

Appellants,

CASE NO. 1D04-5084

v.

BAY COUNTY, FLORIDA, a political
subdivision of the State of Florida, and
THE ST. JOE COMPANY,

Appellees.

Opinion filed May 6, 2005.

An appeal from an order of the Circuit Court for Bay County.
Dedee S. Costello, Judge.

Diane C. Brown, Nancy Crook, Brenda Harrison, and Charles Smith, pro se,
appellants.

Terrell K. Arline, Tallahassee, for appellee, Bay County; Gary P. Sams, Gary K.
Hunter, Jr., and Garv V. Perko of Hopping, Green & Sams, Tallahassee, for appellee
St. Joe/Arvida West Holdings, LLC.

PER CURIAM.

Despite appellant Nancy Crook's repeated attempts to have the lower tribunal
enter an appealable order, the lower tribunal has failed to do so. A dismissal without

prejudice is a nonfinal, nonappealable order if the dismissal is without prejudice to amend the complaint in the same action. See Augustin v. Blount, Inc., 573 So. 2d 104 (Fla. 1st DCA 1991). Accordingly, we grant appellees' motions to dismiss and dismiss the appeal as premature as to appellant Nancy Crook.

ERVIN and LEWIS, JJ., CONCUR; BROWNING, J., CONCURS with separate opinion.

BROWNING, J., CONCURS WITH SEPARATE OPINION.

I concur with the opinion. I write only to express my view, which I think is the correct one, that the trial court errs by requiring Appellant to amend her complaint and not enter an order of dismissal with prejudice as Appellant requested. Appellant is entitled to an order of dismissal with prejudice upon her request providing her with the right to appeal.