

Order filed January 26, 2012



In The

Eleventh Court of Appeals

No. 11-11-00311-CV

BLM OF BROWNWOOD, INC., Appellant
V.
MID-TEX CELLULAR, LTD. ET AL., Appellees

On Appeal from the 35th District Court
Brown County, Texas
Trial Court Cause No. CV 1009295

O R D E R

BLM of Brownwood, Inc. filed a notice of appeal after the trial court entered two take-nothing judgments in this case: one in favor of defendant Mid-Tex Cellular, Ltd. and the other in favor of defendants John Boysen, Marcus Boysen, and Jerry Boysen. Upon reviewing the clerk's record, this court notified the parties that it did not appear to this court that the trial court had entered a final, appealable judgment. As requested, BLM filed a response on January 9, 2012. In its response, BLM asserted that the trial court, in granting the defendants' motions for summary judgment, had disposed of all causes of action and that, together, the judgments constituted a final, appealable judgment. We disagree. Consequently, we abate the appeal pursuant to TEX. R. APP. P. 27.2 to permit the trial court to render a final judgment.

Except for "a few mostly statutory exceptions," this court's jurisdiction is limited to appeals from final judgments. *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex. 2001).

We determine whether a judgment is a final, appealable judgment based on the language in the judgment and the record of the case. *Id.* A judgment is final and appealable if it disposes of all parties and all claims in the case. *Id.*

In its petition, BLM asserted claims for tortious interference with a contract, breach of contract, conversion, statutory fraud, and negligence and specifically requested to be reimbursed for its reasonable attorney's fees. In their pleadings, the defendants also requested to be awarded attorney's fees. All parties moved for summary judgment, but none moved for summary judgment on any claim for attorney's fees. The judgments from which BLM appeals are each entitled "FINAL SUMMARY JUDGMENT" and purport to be final and appealable, but they do not dispose of all parties and all claims. In the judgments, the trial court granted the defendants' motions for summary judgment and rendered judgment that BLM take nothing. The judgments do not address the claims for attorney's fees, and nothing in the record shows that the parties' claims for attorney's fees have been nonsuited, severed, or otherwise finally disposed of by the trial court. Consequently, there is not yet a final, appealable judgment in this case. *See McNally v. Guevara*, 52 S.W.3d 195 (Tex. 2001) (holding that summary judgment was not final and appealable because it did not dispose of claim for attorney's fees).

We hold that, although the judgments may purport to be final, they are not; they do not dispose of all parties and all claims. Because the trial court has not disposed of all of the claims before it, we do not have jurisdiction to entertain an appeal at this time. We abate the appeal pursuant to Rule 27.2 so that the trial court may render a final judgment. The trial court is instructed to do so on or before February 27, 2012, and the court reporter and district clerk are ordered to file in this court any supplemental records relating to the entry of a final judgment on or before March 13, 2012.

The appeal is abated.

January 26, 2012

PER CURIAM

Panel consists of: Wright, C.J.,
McCall, J., and Kalenak, J.