

ARKANSAS COURT OF APPEALS

DIVISION I

No. CA08-1458

BRENDA WONDER and RONNIE
WONDER,

APPELLANTS

V.

NANCY MCLEESE,

APPELLEE

Opinion Delivered 2 SEPTEMBER 2009

APPEAL FROM THE UNION
COUNTY CIRCUIT COURT,
[NO. CV-07-298-4]

THE HONORABLE CAROL
CRAFTON ANTHONY, JUDGE

REBRIEFING ORDERED

D.P. MARSHALL JR., Judge

When Ronnie and Brenda Wonder stopped making monthly payments to Nancy McLeese on the parties' contract for sale of two lots and a house trailer in El Dorado, McLeese gave notice to vacate and then filed this unlawful-detainer action. The circuit court held a bench trial and ruled for McLeese. The Wonders appeal. The issue presented is whether, in light of the parties' contract and all the circumstances, the Wonders forfeited their pre-default payments or an equitable mortgage exists.

We order rebriefing. A deficiency in the Wonders' abstract means that we "cannot reach the merits of the case." Ark. Sup. Ct. R. 4-2(b)(3). The Wonders have failed to abstract their arguments at trial about why they contend they are entitled to an equitable interest in the property. The Wonders must demonstrate preservation or we cannot address those arguments on appeal. *Laird v. Weigh Systems South II, Inc.*, 98

Ark. App. 393, 398, 255 S.W.3d 900, 904 (2007). The addendum needs to be cleaned up too. The circuit court's letter opinion, which was attached to and incorporated in the final order, is not in the addendum. It needs to be. Ark. Sup. Ct. R. 4-2(a)(8). The record suggests that the Wonders gave the circuit court a trial brief and perhaps a post-trial brief. These briefs are not in the addendum and we cannot find them in the record either. We leave to the parties whether the record needs supplementing. Ark. R. App. P.—Civil 6(e); *McDermott v. Sharp*, 371 Ark. 462, 465, 267 S.W.3d 582, 585 (2007) (holding that “it is the appellant’s burden to bring up a record sufficient to demonstrate that the trial court was in error”).

The Wonders shall have thirty days to file a substituted abstract, brief, and addendum. If they do so, McLeese will have thirty days thereafter to file a substituted appellee’s brief. If the Wonders do not file a new abstract, brief, and addendum, then we will decide the case on the current papers.

Rebriefing ordered.

HART and GLOVER, JJ., agree.