NOT DESIGNATED FOR PUBLICATION

ARKANSAS COURT OF APPEALS

DIVISION II
No. CA 08-800

JOHNNY G. HICKMAN APPELLANT V. JUANITA HICKMAN, JIMMY BRACKMAN AND LISA BRACKMAN APPELLEES	**Opinion Delivered** March 4, 2009 APPEAL FROM THE LAFAYETTE COUNTY CIRCUIT COURT, [NO. DR-2005-5-1] HONORABLE JOE GRIFFIN, JUDGE DISMISSED

COURTNEY HUDSON HENRY, Judge

In this divorce case, appellant Johnny Hickman appeals that portion of a post-decree order granting specific performance to appellees Lisa and Jimmy Brackman of an oral contract to convey property that was acquired by appellant and appellee Juanita Hickman during the course of their marriage. Appellee Juanita Hickman cross-appeals that part of the order denying her request for alimony. For reversal, Mr. Hickman contends that the statute of frauds barred enforcement of the alleged oral contract to sell the land, while Mrs. Hickman contests the trial court's decision regarding alimony. We must dismiss the appeals because the order from which they are taken is not a final, appealable order.

The Hickmans married in April of 1956 and separated in 2005. Following the separation, Mrs. Hickman filed a complaint for divorce on grounds of general indignities, and Mr. Hickman filed a counterclaim for divorce asserting the same grounds. On November 29,

2005, the trial court granted Mrs. Hickman a divorce, reserving the issues of property and alimony for a later determination.

During the marriage, the Hickmans acquired an interest in an oil well referred to as "Lyons Placid No. 1" and an interest in a salt-water-disposal well called "IPCO-Placid 'A' No. 1." Also, in a series of transactions, the Hickmans purchased a total of 246 acres of land. Appellee Lisa Brackman is the Hickmans' daughter, and she and her husband, appellee Jimmy Brackman, intervened in the action alleging ownership of the 246 acres by virtue of an alleged oral contract of sale they entered into with the Hickmans in 1998.

The trial court held a hearing in August 2007 and later issued a letter opinion setting forth its rulings on the contested issues, which the court incorporated in an order dated April 9, 2008. The court granted the Brackmans' request for specific performance, finding that there was an oral contract of sale that was not barred by the statute of frauds, based on the Brackmans' possession of the property and part performance of the contract. The trial court also denied Mrs. Hickman's request for alimony. With regard to the two wells, the trial court awarded the parties each a one-half interest in them. The trial court also ruled:

> The plaintiff [Mrs. Hickman] and defendant [Mr. Hickman] are each awarded one-half interest in the income or net profit after expenses for operating said wells for the years 2005, 2006, and 2007, which will be determined by the Court at a later hearing. The defendant, Johnny G. Hickman, is ordered to produce for the Court an accounting of all income and expenses in connection with the operation of these wells within 30 days from the date of this Order.

Mr. Hickman filed a notice of appeal from this order on April 16, 2008, and Mrs. Hickman filed a notice of cross-appeal on April 28, 2008.

With exceptions not applicable here, an appeal may be taken only from a final judgment or decree entered by the trial court. Ark. R. App. P.–Civil 2(a)(1) (2008). An order is not final when it adjudicates fewer than all of the claims or the rights and liabilities of fewer than all of the parties. *Farrell v. Farrell*, 359 Ark. 1, 193 S.W.3d 734 (2004). An order is not final and appealable merely because it settles the issue as a matter of law; to be final, the order must also put the court's directive into execution, ending the litigation or a separable branch of it. *Morton v. Morton*, 61 Ark. App. 161, 965 S.W.2d 809 (1998). The amount of the judgment must be computed, as near as may be, in dollars and cents, so as to be enforced by execution or some other appropriate manner. *Allen v. Allen*, 99 Ark. App. 292, 259 S.W.3d 480 (2007). Moreover, when the order appealed from reflects that further proceedings are pending, which do not involve collateral matters, the order is not final. *Hernandez v. Hernandez*, 371 Ark. 323, 265 S.W.3d 746 (2007). Even though an issue on which a court renders a decision might be an important one, an appeal will be premature if the decision does not, from a practical standpoint, conclude the merits of the case. *Farrell v. Farrell*, *supra*.

As is self-evident from the order that is being appealed, the trial court has made no final disposition regarding the income from the wells. The trial court merely ruled that the Hickmans were to equally divide the annual net earnings generated by the wells from 2005 to 2007. However, the court has not yet calculated the dollar amount of the parties' shares, which is to be determined at a subsequent hearing once Mr. Hickman provides an accounting.

Rule 54(b) of the Arkansas Rules of Civil Procedure (2008) provides a way to obtain a final order on fewer than all the claims of the parties. However, this provision requires a party to move the trial court for an express determination, supported by specific factual findings, that there is no just reason for delay. Our courts have recognized that this rule is fully applicable to property-division issues in divorce cases. *Id.*; *Morton v. Morton*, *supra*. However, neither party sought a Rule 54(b) certification in this case.

Whether a final judgment, decree, or order exists is a jurisdictional issue that we have the duty to raise, even if the parties do not, in order to avoid piecemeal litigation. *Roberts v. Roberts*, 70 Ark. App. 94, 14 S.W.3d 529 (2000). Because the order entered by the trial court was not final and appealable, we dismiss the appeals without prejudice.

Dismissed.

HART and GLOVER, JJ., agree.