

Cite as 2010 Ark. App. 573

ARKANSAS COURT OF APPEALSDIVISION I
No. CA10-748FIRST HORIZON HOME LOAN
CORPORATION, A DIVISION OF
FIRST TENNESSEE BANK, N.A.

APPELLANT

V.

KATHERINE L. BRUMLEY
EVANCHO a/k/a KATHERINE L.
BRUMLEY AND BANK OF
FAYETTEVILLE, N.A.

APPELLEES

Opinion Delivered SEPTEMBER 1, 2010APPEAL FROM THE CIRCUIT
COURT OF WASHINGTON
COUNTY
[CV-09-3084-6]HONORABLE MARK LINDSAY,
JUDGE

DISMISSED

PER CURIAM

This is an appeal by First Horizon Home Loan Corporation from an order dismissing its complaint against Katherine Brumley Evancho and The Bank of Fayetteville, N.A. We dismiss the appeal for lack of jurisdiction because the order from which the appeal is taken does not dispose of all of the claims in the lawsuit and therefore is not a final, appealable order.

Although briefs have not yet been filed, appellant filed in this court a motion for substitution of parties. In its response to the motion, appellee The Bank of Fayetteville stated that no final order had been entered in this case and prayed that appellant not be allowed to circumvent Rule 54 of the Arkansas Rules of Civil Procedure and Rule 2 of the Arkansas

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Rules of Appellate Procedure requiring appeals to be brought only from final orders.

Our review of the record indicates that The Bank of Fayetteville filed a counterclaim against appellant on February 9, 2010, and an amended counterclaim on February 22, 2010. The order from which the appeal is taken does not dispose of these counterclaims and there is no other order in the record doing so. Nor is there a 54(b) Certificate directing entry of a final judgment as to fewer than all of the claims and specifically setting forth that there is no just reason for delay.

While appellee did not file a formal motion to dismiss this appeal, the question whether an order is final and subject to appeal is a jurisdictional question, which we will raise on our own even if the parties do not. *Epting v. Precision Paint & Glass, Inc.*, 353 Ark. 84, 110 S.W.3d 747 (2003). When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim, or third-party claim, the trial court may direct entry of a final judgment as to one or more but fewer than all of the claims only upon an express determination, supported by specific factual findings, that there is no just reason for delay, and upon an express direction for the entry of judgment. Ark. R. Civ. P. 54(b)(1) (2010). In the event the court so finds, it shall execute a Rule 54(b) Certificate and set forth the factual findings upon which the determination to enter judgment as final is based. *See id.*

We dismiss this appeal without prejudice because the order from which the appeal is taken is not a final, appealable order. Therefore, we have no jurisdiction.

Dismissed.