

Cite as 2010 Ark. App. 753

ARKANSAS COURT OF APPEALS

DIVISION III

No. CA10-268

DEUTSCHE BANK NATIONAL
TRUST COMPANY

APPELLANT

V.

MIKE AUSTIN

APPELLEE

Opinion Delivered NOVEMBER 10, 2010APPEAL FROM THE SEBASTIAN
COUNTY CIRCUIT COURT, FORT
SMITH DISTRICT
[NO. CV 08-27]HONORABLE J. MICHAEL
FITZHUGH, JUDGE

DISMISSED

ROBERT J. GLADWIN, Judge

Appellant Deutsche Bank National Trust Company appeals the January 12, 2010 order of the Sebastian County Circuit Court finding that appellee Mike Austin (1) had purchased certain residential property from David M. and G. Sue Swaithe; (2) had spent \$40,732.59 making repairs to said property; and (3) was entitled to reimbursement in that amount from the first proceeds of any subsequent foreclosure and sale of said property by Deutsche. Deutsche argues multiple points as grounds for reversal: (1) it held a valid first lien on the property that was superior to any interest of Austin; (2) it was not unjustly enriched by Austin's repairs; (3) Austin failed to plead or otherwise raise the claim of unjust enrichment or predatory lending in his complaint; (4) Austin had no standing to raise a claim of predatory lending because there was no relationship between Deutsche and him; and (5) the Arkansas

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Deceptive Trade Practices Act is inapplicable in this case because the transactions involved are governed by federal law.

We hold that Deutsche's appeal must be dismissed for lack of a final, appealable order. Austin's complaint contained two counts. Count I alleged breach of contract and requested a declaratory judgment, and Count II alleged violations of the Arkansas Deceptive Trade Practices Act. However, the record fails to reflect that Count II has been adjudicated.

Arkansas Rule of Appellate Procedure--Civ. 2(a) (2010) permits appeals only from final orders of a trial court. An order must be final for the appellate court to have jurisdiction; thus, we may consider this issue even though the parties have not raised it. *Le v. Nguyen*, 2009 Ark. App. 642. Pursuant to Rule 54(b) (2010) of the Arkansas Rules of Civil Procedure, an order in which fewer than all claims are adjudicated is not an appealable order unless the trial court expressly directs the entry of a final judgment to claims disposed of and expressly determines that there is no just reason for delay. *See Century Indus., Inc. v. Reach-Assocs., LLC*, 2010 Ark. App. 455. In the instant case, all of Austin's claims have not been disposed of in the trial court's order. Because there was no final order from which to appeal, the appeal is dismissed without prejudice.

Appeal dismissed.

PITTMAN and KINARD, JJ., agree.