

RENDERED: July 30, 2004, 2:00 p.m.
NOT TO BE PUBLISHED

Commonwealth Of Kentucky

Court of Appeals

NO. 2002-CA-002635-MR

LINDA S. CORNETT ARMENIS

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE MARY C. NOBLE, JUDGE
ACTION NO. 01-CI-04430

NATIONAL CITY BANK OF KENTUCKY

APPELLEE

AND

NO. 2002-CA-002636-MR

SPYRIDON ARMENIS

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE MARY C. NOBLE, JUDGE
ACTION NO. 01-CI-04430

NATIONAL CITY BANK OF KENTUCKY

APPELLEE

AND

NO. 2003-CA-000247-MR

LINDA S. ARMENIS and
SPYRIDON ARMENIS

APPELLANTS

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE MARY C. NOBLE, JUDGE
ACTION NO. 01-CI-04430

NATIONAL CITY BANK OF KENTUCKY

APPELLEE

AND

NO. 2003-CA-000733-MR

LINDA S. CORNETT ARMENIS
and SPYRIDON ARMENIS

APPELLANTS

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE MARY C. NOBLE, JUDGE
ACTION NO. 01-CI-04430

NATIONAL CITY BANK OF KENTUCKY

APPELLEE

OPINION AND ORDER
DISMISSING APPEALS

** ** * * *

BEFORE: TACKETT, JUDGE; EMBERTON AND MILLER, SENIOR JUDGES.¹

EMBERTON, SENIOR JUDGE. On December 26, 2002, Spyridon Armenis and Linda S. Cornett Armenis filed separate notices of appeal from an order and judgment of sale entered by the Fayette Circuit Court on November 22, 2002.

¹ Senior Judge Thomas D. Emberton and Senior Judge John D. Miller sitting as Special Judges by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580.

CR² 73.02(1)(a) expressly states that the notice of appeal "shall be filed within thirty days after the date of notation of service of the judgment or order under Rule 77.04(2)." The time period is mandatory and failure to comply is fatal to an appeal.³ The prescribed time period permitted is not to be extended nor excused because of the failure to receive notice of the entry of the order appealed.⁴ Although pursuant to CR 73.02(d), upon proper motion, a trial court has limited discretion to extend the time period in which to file a notice of appeal to no more than ten days, no such motion was made.

Spyridon Armenis and Linda S. Cornett Armenis filed two additional appeals. The first filed on February 4, 2003, is an appeal from a January 17, 2003, order denying a "Petition to Re-establish the Document" and "Motion to Stay Foreclosure," and a January 24, 2003, order denying the "Motion for Reconsideration for the Petition to Re-establish the Document." Subsequently, the appellants also appealed Fayette Circuit Court orders approving the Master Commissioner's report of sale and the conveyance of the deed of the Master Commissioner.

This is a foreclosure proceeding commenced by National City Bank of Kentucky against property titled in the name of

² Kentucky Rules of Civil Procedure.

³ Fox v. House, Ky. App., 912 S.W.2d 450 (1995).

⁴ Stewart v. Kentucky Lottery Corporation, Ky. App., 986 S.W.2d 918 (1998).

Stephen G. E. Grossman. On January 7, 2002, the Fayette Circuit Court granted the motion of Douglas C. Brandon and Brian P. Gilfedder to intervene in the action for the purpose of asserting an attachment lien upon the property. Neither Brandon nor Gilfedder are named in the notices of appeal filed. We hold that Brandon and Gilfedder are indispensable parties to the appeals and the failure to designate them in the notices of appeal is fatal.⁵

Therefore, it is hereby ORDERED that all the above-styled appeals are dismissed.

ALL CONCUR.

ENTERED: July 30, 2004

/s/ Thomas D. Emberton
SENIOR JUDGE, COURT OF APPEALS

BRIEF FOR APPELLANTS:

Dr. Spyridon Armenis and Linda
S. Cornett Armenis, Pro Se
London, Kentucky

BRIEF FOR APPELLEE:

Douglas J. Hallock
MORGAN & POTTINGER, P.S.C.
Lexington, Kentucky

⁵ City of Devondale v. Stallings, Ky., 795 S.W.2d 954, 957 (1990).