

[Cite as *Nimble Corp. v. Wilson*, 2012-Ohio-3625.]

COURT OF APPEALS  
STARK COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

NIMBLE CORP.

Plaintiff-Appellee

-vs-

JONATHAN L. WILSON, ET AL.

Defendants-Appellants

JUDGES:

Hon. Patricia A. Delaney, P.J.

Hon. William B. Hoffman, J.

Hon. Sheila G. Farmer, J.

Case No. 2011CA00255

OPINION

CHARACTER OF PROCEEDING:

Appeal from the Stark County Court of  
Common Pleas, Case No. 2010CV04202

JUDGMENT:

Dismissed

DATE OF JUDGMENT ENTRY:

August 6, 2012

APPEARANCES:

For Plaintiff-Appellee

For Defendants-Appellants

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*Hoffman, J.*

{¶1} Defendants-appellants Jonathan L. Wilson and Kim Wilson, aka Kim J. Wilson, appeal the October 14, 2011 Judgment Entry Granting Plaintiff's Motion for Summary Judgment entered by the Stark County Court of Common Pleas. Plaintiff-appellee is Nimble Corp.

#### STATEMENT OF THE CASE<sup>1</sup>

{¶2} Appellee filed a foreclosure action against Appellants based upon an alleged default in payment of a promissory note executed by Appellants and secured by a mortgage on their real property. Appellee's complaint further requested reformation of the legal description contained in the mortgage.

{¶3} Appellee filed a motion for summary judgment on July 5, 2011. Appellants filed their response on July 19, 2011. Appellants filed their own motion for summary judgment on July 7, 2011, to which Appellee responded on July 22, 2011.

{¶4} On October 14, 2011 the trial court granted Appellee's motion for summary judgment and denied Appellants' motion for summary judgment.

{¶5} It is from the October 14, 2011 judgment entry Appellants prosecute this appeal assigning as error:

{¶6} "I. THE TRIAL COURT ERRED BY SUSTAINING THE APPELLEE'S MOTION FOR SUMMARY JUDGMENT BECAUSE APPELLEE CANNOT OBTAIN A FORECLOSURE ON A MORTGAGE THAT IS DEFECTIVE AND CANNOT INCLUDE A CAUSE OF ACTION IN ITS ACTION OF FORECLOSURE SEEKING REFORMATION OF THE INSTRUMENT THAT IS THE SUBJECT OF THE FORECLOSURE."

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<sup>1</sup> A rendition of the facts is unnecessary for our disposition of this appeal.

{¶17} Upon review of the trial court’s October 14, 2011 judgment entry, we find this Court lacks jurisdiction to determine this appeal under R.C. 2505.02.

{¶18} In its entry granting Appellee summary judgment, the trial court ordered “Plaintiff shall provide an entry to this Court in accord with its decision and give notification thereof to the defendants.” October 14, 2011 judgment entry at p.2.

{¶19} Appellants filed their notice of appeal on November 14, 2011. Appellee has yet to provide the trial court with the entry ordered by it on October 14, 2011. As such we find the trial court has yet to render a final appealable order on Appellee’s complaint for foreclosure and reformation.

{¶10} Appellants’ appeal is dismissed for lack of jurisdiction.

By: Hoffman, J.

Delaney, P.J. and

Farmer, J. concur

s/ William B. Hoffman  
HON. WILLIAM B. HOFFMAN

s/ Patricia A. Delaney  
HON. PATRICIA A. DELANEY

s/ Sheila G. Farmer  
HON. SHEILA G. FARMER

IN THE COURT OF APPEALS FOR STARK COUNTY, OHIO  
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NIMBLE CORP.

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JUDGMENT ENTRY

Case No. 2011CA00255

For the reason stated in our accompanying Opinion, this appeal is ordered dismissed. Costs assessed to Appellants.

s/ William B. Hoffman  
HON. WILLIAM B. HOFFMAN

s/ Patricia A. Delaney  
HON. PATRICIA A. DELANEY

s/ Sheila G. Farmer  
HON. SHEILA G. FARMER