

COURT OF APPEALS  
LICKING COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

WILMINGTON SAVINGS FUND SOCIETY, :	JUDGES:
Plaintiff - Appellee :	Hon. Patricia A. Delaney, P.J.
-vs- :	Hon. Craig R. Baldwin, J.
:	Hon. Earle E. Wise, J.
:	
PATRICK P. POSTELWAITE, :	Case No. 2019 CA 00120
Defendant - Appellant :	
:	<u>O P I N I O N</u>

CHARACTER OF PROCEEDING:	Appeal from the Licking County Court of Common Pleas, Case No. 2018 CV 00770
--------------------------	--

JUDGMENT:	Dismissed
-----------	-----------

DATE OF JUDGMENT:	November 23, 2020
-------------------	-------------------

APPEARANCES:

For Plaintiff-Appellee

STACY M. PIEPMEIER  
CHRISTOPHER G. PHILLIPS  
Shapiro, Van Ess, Phillips & Barragate, LLP  
4805 Montgomery Road, Suite 320  
Norwood, OH 45212

For Defendant-Appellant

PATRICK P. POSTELWAITE, Pro se  
85 West Church Street, Apt. 716  
Newark, Ohio 43055

*Baldwin, J.*

{¶1} Defendant-appellant Patrick Postelwaite appeals from an order granting summary judgment in favor of plaintiff-appellee.

#### STATEMENT OF THE FACTS AND CASE

{¶2} On May 4, 2007, appellant executed a promissory note in favor of appellee's predecessor in the principal sum of \$31,411.78 plus interest. Appellee Wilmington Savings Fund Society, FSB, as Trustee of Stanwich Mortgage Loan Trust was the owner and holder of a mortgage note and deed. Appellant was the owner of the real estate.

{¶3} On July 23, 2018, a complaint for money judgment, foreclosure and relief was filed against appellant. Appellant filed an answer on August 13, 2018. Appellee, on December 3, 2018, filed a Motion for Summary Judgment.

{¶4} As memorialized in a Final Judgment Entry filed on August 15, 2019, the trial court granted judgment in favor of appellee and against appellant in the amount of \$14,334.70 plus interest. Appellant, on August 20, 2019, filed a "Final Judgment Entry Motion to Dismissed(sic)". A Notice of Sale was filed on October 7, 2019. A Judgment Entry Confirming the Sale and Ordering Distribution was filed on February 21, 2020.

{¶5} Appellant has now filed an appeal. We must first consider whether appellant's appeal is timely.

{¶6} App.R. 4 states, in relevant part, as follows: "*Appeal From Order That Is Final Upon Its Entry.* Subject to the provisions of App.R. 4(A)(3), a party who wishes to appeal from an order that is final upon its entry shall file the notice of appeal required by App.R. 3 within 30 days of that entry."

{¶17} In the case sub judice, appellant filed his Notice of Appeal, which was in letter form, on December 11, 2019. In his docketing statement, he indicated that he was appealing from the trial court's December 11, 2019 Judgment. However, there is no December 11, 2019 judgment. The trial court's Final Judgment Entry was issued on August 15, 2019. Because appellant's appeal was filed more than 30 days of the issuance of such Entry, we find that appellant's appeal is untimely.

{¶18} Accordingly, appellant's appeal is dismissed as untimely.

By: Baldwin, J.

Delaney, P.J. and

Wise, Earle, J. concur.