

[Cite as *Aurora Loan Servs. v. Kahook*, 2009-Ohio-2997.]

STATE OF OHIO)
)ss:
COUNTY OF SUMMIT)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

AURORA LOAN SERVICES

C.A. No. 24415

Appellee

v.

ALI NASSER KAHOOK, et al.

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF SUMMIT, OHIO
CASE No. CV 2006-12-8357

Appellants

DECISION AND JOURNAL ENTRY

Dated: June 24, 2009

MOORE, Presiding Judge.

{¶1} Appellants, Elizabeth and Joel Neidenthal, appeal from the decision of the Summit County Court of Common Pleas. This Court dismisses the appeal.

I.

{¶2} On December 20, 2006, Appellee, Aurora Loan Services (“Aurora”), filed a complaint for foreclosure on the property in which the Neidenthals were tenants. Aurora named the landowner as the defendant as well as “Jamie Doe, name unknown, occupant[.]” On October 22, 2007, a decree of foreclosure was entered and on June 11, 2008, a confirmation of sale was entered in which the trial court ordered the sale proceeds to be distributed.

{¶3} On August 22, 2008, a writ of possession was issued and on September 5, 2008, the Neidenthals filed a motion to quash the writ and stay the execution of judgment or in the alternative, to dismiss the action. The Neidenthals’ eviction was set for September 15, 2008. In their motions, they contended that they had not been personally served with the foreclosure

action and therefore, a writ of possession was improper. On September 11, 2008, the trial court denied the Neidenthals' motions. The Neidenthals timely appealed this decision. Shortly thereafter, the Neidenthals filed with this Court a motion seeking an emergency stay of the judgment pending the appeal. This motion was filed approximately one hour prior to the trial court's scheduled execution of the writ. This Court denied the motion, but allowed the Neidenthals three days to refile their motion in compliance with the Appellate Rules. This Court also ordered the parties to brief the issue of whether the order appealed from was a final appealable order. Subsequently, the trial court executed the writ. The parties responded to this Court's order regarding jurisdiction, and conceded that their request for a stay was moot. This Court noted, however, that the parties did not address the issue of whether the appeal itself was moot. To that end, this Court ordered the parties to submit memoranda explaining why this appeal was not moot. The parties submitted the required memoranda and the matter proceeded before this Court.

{¶4} The Neidenthals have presented one assignment of error for our review.

II.

ASSIGNMENT OF ERROR

“THE TRIAL COURT ERRED IN FAILING TO QUASH THE WRIT OF POSSESSION AND DISMISS THE COMPLAINT, AS AGAINST [THE NEIDENTHALS], FOR LACK OF PERSONAL JURISDICTION.”

{¶5} In their sole assignment of error, the Neidenthals contend that the trial court erred in failing to quash the writ of possession and dismiss the complaint, as against them, for lack of personal jurisdiction. We are without jurisdiction to review the merits of the Neidenthals' contentions.

{¶6} Appellate courts will not review questions that do not involve live controversies. See *Tschantz v. Ferguson* (1991), 57 Ohio St.3d 131, 133. Thus, an action must be dismissed as moot unless it appears that a live controversy exists. *Lorain Cty. Bd. of Commrs. v. U.S. Fire Ins. Co.* (1992), 81 Ohio App.3d 263, 266-267. It is a “well-established principle of law that a satisfaction of judgment renders an appeal from that judgment moot.” *Blodgett v. Blodgett* (1990), 49 Ohio St.3d 243, 245. After the rights and obligations of the parties have been extinguished through satisfaction of the judgment, a judgment on appeal becomes moot because it “cannot have any practical effect upon the issues raised by the pleadings.” (Citations and quotations omitted.) *Sedlak v. Solon* (1995), 104 Ohio App.3d 170, 178.

{¶7} We have recently discussed whether the satisfaction of a judgment in a foreclosure case rendered the case moot on appeal. *Bankers Trust Co. of California, N.A. v. Tutin*, 9th Dist. No. 24329, 2009-Ohio-1333. We explained that “[i]n foreclosure cases, as in all other civil actions, after the matter has been extinguished through satisfaction of the judgment, the individual subject matter of the case is no longer under the control of the court and the court cannot afford relief to the parties to the action. Because there is no live controversy before this Court, the appeal is dismissed as moot.” *Id.* at ¶16. The Neidenthals do not contest the fact that the trial court has disbursed the funds to Aurora and that the writ of possession has been executed. Accordingly, the judgment in this case has been satisfied and, as no live controversy exists, we must dismiss the appeal as moot.

Appeal dismissed.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the

period for review shall begin to run. App.R. 22(E). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellants.

CARLA MOORE
FOR THE COURT

DICKINSON, J.
CONCURS
BELFANCE, J.
CONCURS IN JUDGMENT ONLY

APPEARANCES:

JOHN E. CODREA, Attorney at Law, for Appellants.

STEVEN L. SACKS and STACY L. CURLISS, Attorneys at Law, for Appellee.