

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

BARBARA RUDISILL,

Appellant

v.

JOANNE M. SEELEY, RONALD D.
BARNHART, KATHLEEN PETERS AND
DAWN & ASSOCIATES REALTY,

Appellees

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 1745 MDA 2012

Appeal from the Order of September 11, 2012,
in the Court of Common Pleas of Adams County,
Civil Division at No. 2009-S-200

BEFORE: SHOGAN, MUNDY and COLVILLE*, JJ.

MEMORANDUM BY COLVILLE, J.:

FILED MAY 29, 2013

Appellant attempts to appeal an order granting summary judgment in favor of Appellee. We quash this appeal.

Given the manner in which we dispose of this appeal, we only will briefly summarize the background underlying the matter. Appellant filed a complaint against the following defendants: Joanne M. Seeley, Ronald D. Barnhart, Kathleen Peters ("Appellee"), and Dawn and Associates Realty. The complaint contained one count entitled "Negligent Misrepresentation."

Appellee eventually filed a motion for summary judgment. On September 11, 2012, the trial court granted the motion for summary

*Retired Senior Judge assigned to the Superior Court.

judgment. On October 4, 2012, Appellant filed a notice of appeal wherein she stated her intent to appeal to September 11th order. In her brief to this Court, Appellant asks us to consider one question, namely, "Whether the trial court committed an error of law in granting appellee's motion for summary judgment, inasmuch as genuine issues of material fact *do* exist?" Appellant's Brief at 7 (emphasis in original). Before we can address the merits of this issue, we must determine whether this Court has jurisdiction over the matter.

Pursuant to 42 Pa.C.S.A. § 742, this Court has jurisdiction over appeals from final orders. Pennsylvania Rule of Appellate Procedure 341 defines "final order" as any order that, *inter alia*, "disposes of all claims and of all parties[.]" Pa.R.A.P. 341(b)(1). In her appellate brief, Appellant asserts that the trial court's September 11th order is a final, appealable order. Appellant's Brief at 4. We disagree.

We begin by noting that Appellant's brief is not helpful in determining whether the September 11, 2012, order is appealable as a final order. Appellant's "Statement of the Case" violates Pa.R.A.P. 2117 in several respects. Most problematic for purposes of determining whether the Court has jurisdiction over this matter, Appellant's "Statement of the Case" is devoid of a procedural history of the case, in violation of Pa.R.A.P. 2117(a)(1).

What is clear from the record is that the trial court entered an order granting summary judgment in favor of Appellee. That order disposed of Appellant's claims against Appellee, and thus, of Appellee. In addition,

Appellant obtained a default judgment against Seeley with damages being set at \$61,600.00. The default judgment disposed of Appellant's claims against Seeley, and thus, of Seeley.

The record also is clear in the following manner. After Appellant filed her complaint, Barnhart filed an answer with new matter and a counterclaim. Barnhart eventually filed a motion for summary judgment wherein he claimed that Appellant failed to produce any evidence that he made a misrepresentation of material fact to Appellant. He, therefore, sought summary judgment with respect to the claim lodged against him by Appellant. He did not seek summary judgment as to his counterclaim.

On March 3, 2011, the trial court granted Barnhart's motion for summary judgment. This order disposed of Appellant's claim against Barnhart; the order did not dispose of Barnhart's claim against Appellant. Thus, the record indicates that Barnhart's claim against Appellant is outstanding.

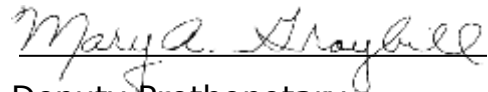
Lastly, the record fails to clarify the fate of Dawn and Associates Realty. We were unable to discover any action by the parties or the trial court that disposed of this defendant or the claims against this defendant.¹ It does not appear, then, that the September 11th order is a final, appealable order; moreover, we can discern no other manner in which the order could be considered immediately appealable.

¹ Appellee asserts, "Defendant Dawn and Associates was not pursued after Sheriff's [sic] returned service as 'not found[.]'" Appellee's Brief at 2.

For these reasons, we conclude that the Court does not have jurisdiction to consider the merits of Appellant's issue. We, therefore, quash the appeal.

Appeal quashed.

Judgment Entered.


Deputy Prothonotary

Date: 5/29/2013