

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

BROOKSIDE APARTMENTS REALTY, LLC

Appellee

v.

MICHAEL HEILMAN AND KYLE HEILMAN

Appellants

IN THE SUPERIOR COURT OF
PENNSYLVANIA

No. 83 MDA 2015

Appeal from the Order Entered December 18, 2014
In the Court of Common Pleas of Lebanon County
Civil Division at No(s): 2014-01069

BEFORE: BOWES, J., JENKINS, J., and PLATT, J.*

DISSENTING MEMORANDUM BY JENKINS, J.: **FILED DECEMBER 04, 2015**

I respectfully dissent.

I agree with the learned majority's analysis of all issues presented, and its determination that all of Appellants' issues are waived. I disagree, however, with the majority's decision to affirm the order on the merits.

As the majority correctly notes, a party must file post-trial motions at the conclusion of trial in any type of civil action in order to preserve claims that the party wishes to raise on appeal. **See** Pa.R.C.P. 227.1.

"The purpose for Rule 227.1 is to provide the trial court with an opportunity to correct errors in its ruling and avert the need for appellate review." [***Chalkey v. Roush***, 805 A.2d 491, 494 n.9 (Pa.2002)] "If an issue has not been raised in a post-trial motion, it is waived for appeal purposes." ***L.B. Foster Co. v. Lane Enterprises, Inc.***,

* Retired Senior Judge assigned to the Superior Court.

710 A.2d 55 ([Pa.]1998). Accordingly, "our Court has consistently quashed appeals from orders or verdicts following non-jury trials when no post-trial motions were filed." ***Diamond Reo Truck Co. v. Mid-Pacific Industries, Inc.***, 806 A.2d 423, 428 (Pa.Super.2002); ***see also Cerniga v. Mon Valley Speed Boat Club, Inc.***, 862 A.2d 1272 (Pa.Super.2004).

Warfield v. Shermer, 910 A.2d 734, 737 (Pa.Super.2006), *appeal denied*, 921 A.2d 497 (Pa.2007).

Here, Appellants did not file post-trial motions. Accordingly, I would quash this appeal.