

IN THE COURT OF APPEALS OF TENNESSEE
AT JACKSON

MARGARET SMITH v. HSBC MORTGAGE SERVICES, INC., ET AL.

**Appeal from the Chancery Court for Shelby County
No. CH1305802 Arnold B. Goldin, Judge**

No. W2014-01070-COA-R3-CV – Filed July 7, 2015

Because the order appealed is not a final judgment, we dismiss this appeal for lack of jurisdiction.

Tenn. R. App. P. 3 Appeal as of Right; Appeal Dismissed

KENNY ARMSTRONG, J., J. STEVEN STAFFORD, P.J.W.S., AND BRANDON O. GIBSON, J.

Margaret Smith, Memphis, Tennessee, appellant *pro se*.

Darrell West, Nashville, Tennessee, for the appellee, HSBC Mortgage Services, Inc.

Bruce Lee Feldbaum, Memphis, Tennessee, for the appellee, Gregory Griffin.

MEMORANDUM OPINION¹

Rule 3 of the Tennessee Rules of Appellate Procedure provides that if multiple parties or multiple claims are involved in an action, any order that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties is not final or appealable. Except where otherwise provided, this Court only has subject matter jurisdiction over final orders. *See Bayberry Assoc. v. Jones*, 783 S.W.2d 553 (Tenn. 1990).

¹ Rule 10 of the Rules of the Court of Appeals of Tennessee provides:

This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated “MEMORANDUM OPINION”, shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

Pursuant to the mandates of Rule 13(b) of the Tennessee Rules of Appellate Procedure, we reviewed the appellate record to determine if the Court has subject matter jurisdiction to hear this matter. After this review, it appeared to the Court that it does not have jurisdiction, because:

1. There is no adjudication of the Counter-Complaint and the Cross-Complaint filed by Appellee Gregory Griffin; and,
2. The trial court's order of March 17, 2015 states that "the cause of action in the instant case, alleging fraud and wrongful foreclosure should be stayed until the parties advise this Court that HSBC Mortgage Services, Inc. has been added as a party in the prior suit pending at which time this Court shall dismiss the remaining cause of action either on Motion or by Agree Order of the parties." There is no order dismissing the remaining cause of action.

Thus, the Court entered an Order on May 11, 2015, directing Appellant to obtain entry of a final judgment in the trial court or else show cause why this appeal should not be dismissed for failure to appeal an appealable order or judgment. On May 22, 2015, Appellant filed a response to our Order and attached thereto a copy of an order granting a motion to dismiss that was entered on January 2, 2015 in a separate action in the Circuit Court of Shelby County, Tennessee. Then, on June 25, 2015, Appellee HSBC Mortgage Services Inc. filed a motion requesting that the Court dismiss this appeal for lack of jurisdiction.

Clearly, the order appealed in this matter is not a final judgment and there is nothing before the Court indicating that Appellant has taken steps to obtain a final judgment in this matter. Consequently, the Court lacks jurisdiction and this appeal must be dismissed.

Conclusion

Because the trial court has not yet entered a final judgment, the appeal is dismissed without prejudice and the case remanded to the trial court for further proceedings consistent with this Opinion. Should a new appeal be filed, the Clerk of this Court shall, upon request of either party, consolidate the record in this appeal with the record filed in the new appeal. Costs of this appeal are taxed to the appellant, Margaret Smith, for which execution may issue, if necessary.

PER CURIAM