

IN THE COURT OF APPEALS OF TENNESSEE
AT JACKSON
May 19, 2003 Session

**CITIFINANCIAL MORTGAGE COMPANY, INC. v. JOHN E. FIELDS, ET
AL.**

**A Direct Appeal from the Circuit Court for Fayette County
No. 4432 The Honorable Jon Kerry Blackwood, Judge**

No. W2003-00361-COA-R3-CV - Filed July 17, 2003

Holder of mortgage, after purchasing property at foreclosure, filed detainer suit in general sessions court for possession of property. Judgment for possession was granted on September 12, 2002. Mortgage-debtor filed an appeal to the circuit court on October 14, 2002. On motion of former mortgage holder and present owner of property, the circuit court dismissed the appeal as untimely filed. Former property owner appeals. We affirm.

Tenn. R. App. P. 3; Appeal as of Right; Judgment of the Circuit Court Affirmed

W. Frank Crawford, P.J., W.S., delivered the opinion of the court, in which ALAN E. HIGHERS, J. and HOLLY KIRBY LILLARD, J., joined.

John Elton Fields, *Pro Se*

Julie G. Moss, Memphis, For Appellees, Citifinancial Mortgage Company, Inc.

MEMORANDUM OPINION¹

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

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 When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION", shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

The record in this case consists only of what was formerly known as the technical record. This record shows only that the appellee, Citifinancial Mortgage Company, filed a Detainer Warrant in the General Sessions Court of Fayette County against the defendants, John Elton Fields and Rochelle Fields, and judgment for possession was entered by the general sessions court on September 12, 2002. On October 14, 2002, the defendants-appellants filed an appeal bond in the circuit court clerk's office.

On November 22, 2002, the circuit court entered an order dismissing the appeal, removing the stay of execution, and authorizing plaintiff to enforce the judgment for possession. The defendants-appellants appeal from this order.

Because of the very meager record in this case, we will give a short explanation of how this case developed, as shown by the briefs. The defendants executed a promissory note secured by a deed of trust on the subject property and, upon default, the property was foreclosed. The holder of the deed of trust purchased the property at the foreclosure sale. Subsequent to the issuance of the trustee's deed, Mr. Fields filed a voluntary petition for bankruptcy, and the holder of the deed of trust was granted relief from the automatic stay on March 28, 2002. Thus, Citifinancial proceeded in general sessions court to obtain possession of the property, which it owned.

The timeliness of the appeal from general sessions court is controlled by T.C.A. § 29-18-128, which provides that the appeal must be filed within ten days of the general sessions court judgment.

Since the determination of the timeliness of the appeal is a question of law, this case comes to this Court without a presumption of correctness of the trial court's ruling. *See Bain v. Wells*, 936 S.W.2d 618, 622 (Tenn. 1997).

Based upon the record before us, we find nothing in the record to provide any grounds for reversal of the trial court's judgment. As previously noted, the record is quite meager. Apparently, there was no evidentiary hearing and, thus, no transcript or statement of the evidence. Although *pro se* litigants are entitled to fair and equal treatment, *Whitaker v. Whirlpool Corp.*, 32 S.W.3d 222, 227 (Tenn. Ct. App. 2000), *pro se* litigants are not entitled to shift the burden of litigating their case to the courts. *Id.* at 222. *Pro se* litigants are not excused from complying with the same substantive and procedural requirements that must be adhered to by other represented parties. *Id.* at 222.

Accordingly, the order of the trial court dismissing the appeal is affirmed. Costs of the appeal are assessed against the appellants, John E. Fields and Rochelle Fields, and their surety.

W. FRANK CRAWFORD, PRESIDING

JUDGE, W.S.