

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

HUNTINGTON NATIONAL BANK, N.A.	:	JUDGES: Hon. W. Scott Gwin, P.J.
	:	Hon. John W. Wise, J.
	:	Hon. Patricia A. Delaney, J.
Plaintiff-Appellee	:	
	:	
-vs-	:	Case No. 2011-CA-00024
	:	
THE SUSSEX GROUP, LTD, ET AL	:	
	:	<u>O P I N I O N</u>
Defendant-Appellant	:	

CHARACTER OF PROCEEDING:	Civil appeal from the Stark County Court of Common Pleas, Case No. 2010CV00273
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JUDGMENT:	Dismissed
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DATE OF JUDGMENT ENTRY:	June 27, 2011
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APPEARANCES:

For Plaintiff-Appellee	For Defendant-Appellant
JAMES M. MCHUGH AMANDA M. PAAR MARIA C. KLUTINORTY 220 Market Avenue S., 8th Fl. Canton, OH 44702	JOHN A. MURPHY, JR. Millennium Centre, Ste. 300 200 Market Avenue North Box 24213 Canton, OH 44701-4213

Gwin, P.J.

{¶1} Defendants-appellants the Sussex Group, Ltd, Schneider Lumber Company, and Donald Schneider appeal a judgment of the Court of Common Pleas of Stark County, Ohio, which issued a charging order to permit plaintiff-appellee the Huntington National Bank N.A., to charge appellant Donald W. Schneider's interest in two corporations with payment on its unpaid judgment against him.

{¶2} Prior to proceeding on the merits, this court must determine whether it has jurisdiction to review this case. The question can be raised by one of the parties or, as here, sua sponte by the court. *Chef Italiano Corp. v. Kent State Univ.* (1989), 44 Ohio St.3d 86, 541 N.E.2d 64.

{¶3} Pursuant to Section 3 (B)(2), Article IV of the Ohio Constitution, our jurisdiction is limited to a review of final judgments. For a judgment to be final and appealable it must satisfy R.C. 2505.02, and if applicable, Civ. R. 54 (B). *Hitching v. Weese*, 77 Ohio St. 3d 390, 197-Ohio-290, 674 N.E. 2d 668 (Resnick, J., concurring) citations deleted.

{¶4} The trial court's judgment in the within directs that the charging order shall act as an attachment on the shares of the two corporations, on any dividends or distributions in the shares payable to appellant, and on any income, officer's fees, bonuses, distributions, salaries or dividends payable to appellant Schneider. The order also prohibits any transfer of corporate shares pending further order of the court. The court directed appellee to proceed with further action directly involving the shares of stock through appropriate execution.

{¶5} In *Carnegie Companies, Inc. v. Summit Properties, Inc.* 183 Ohio App. 3d 770, 2009-Ohio-4655, 918 N.E. 2d 1052, the Court of Appeals for the Ninth District stated succinctly: “an order is not final until a trial court rules on all the issues surrounding an award and leaving nothing outstanding for further determination.” *Carnegie Companies*, at paragraph 18.

{¶6} The trial court’s entry here does not terminate the action, and contemplates further proceedings. As such, we find the judgment appealed from is not a final appealable order, and we have no jurisdiction to review the merits.

{¶7} The appeal is dismissed.

By Gwin, P.J.,
Wise, J., and
Delaney, J., concur

HON. W. SCOTT GWIN

HON. JOHN W. WISE

HON. PATRICIA A. DELANEY

WSG:clw 0609

IN THE COURT OF APPEALS FOR STARK COUNTY, OHIO

FIFTH APPELLATE DISTRICT

HUNTINGTON NATIONAL BANK, N.A.

Plaintiff-Appellee

-VS-

THE SUSSEX GROUP, LTD, ET AL

Defendant-Appellant

JUDGMENT ENTRY

CASE NO. 2011-CA-00024

For the reasons stated in our accompanying Memorandum-Opinion, the appeal is dismissed for lack of jurisdiction. Costs to appellant.

HON. W. SCOTT GWIN

HON. JOHN W. WISE

HON. PATRICIA A. DELANEY