

COURT OF APPEALS
RICHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

SECRETARY OF VETERANS
AFFAIRS

Plaintiff-Appellee

-VS-

TRISH SHAFFER

Defendant-Appellant

JUDGES:

Hon. Sheila G. Farmer, P.J.

Hon. W. Scott Gwin, J.

Hon. Patricia A. Delaney, J.

Case No. 15-CA-65

OPINION

CHARACTER OF PROCEEDING:

Appeal from the Court of Common
Pleas, Case No. 12CV1029

JUDGMENT:

Dismissed

DATE OF JUDGMENT:

March 2, 2016

APPEARANCES:

For Plaintiff-Appellee

MATTHEW J. RICHARDSON
P.O. Box 165028
Columbus, OH 43216-5028

For Defendant-Appellant

WARNER MENDELHALL
190 North Union Street
Suite 201
Akron, OH 44304

Farmer, P.J.

{¶1} On August 29, 2012, appellee, Secretary of Veterans Affairs, filed a complaint in foreclosure against appellant, Trish Shaffer, and others, for the failure to pay on a note secured by a mortgage.

{¶2} A bench trial before a magistrate was held on August 30, 2013. An additional hearing was held on May 28, 2014 on the amount of the unpaid principal balance. By decision filed June 17, 2014, the magistrate found in favor of appellant, finding a failure of proof that appellee was the entity entitled to enforce the note and a failure of proof on the outstanding balance.

{¶3} Appellee filed objections. By judgment entry filed July 14, 2014, the trial court overruled the objections and adopted the magistrate's decision.

{¶4} Appellee filed an appeal, and this court reversed the trial court's decision and remanded the case for further proceedings. *Secretary of Veterans Affairs v. Shaffer*, 5th Dist. Richland No. 14 CA 61, 2015-Ohio-2237.

{¶5} Upon remand, the trial court issued an order on July 2, 2015, entering judgment in favor of appellee in the amount of \$72,974.08, and ordering the preparation of an appropriate order of foreclosure.

{¶6} Appellant filed an appeal and this matter is now before this court for consideration. Assignment of error is as follows:

I

{¶7} "THE TRIAL COURT ABUSED ITS DISCRETION IN ENTERING A JUDGMENT AGAINST APPELLANT FOR THE PURPORTED BALANCE OWED."

I

{¶8} Appellant claims the trial court abused its discretion in entering judgment for appellee in the amount of \$72,974.08.

{¶9} Before reaching the merits of this appeal, it is necessary to determine whether the order appealed from is a final appealable order. To be final and appealable, an order must comply with R.C. 2505.02. Subsection (B) provides the following in pertinent part:

(B) An order is a final order that may be reviewed, affirmed, modified, or reversed, with or without retrial, when it is one of the following:

(1) An order that affects a substantial right in an action that in effect determines the action and prevents a judgment;

(2) An order that affects a substantial right made in a special proceeding or upon a summary application in an action after judgment;

(3) An order that vacates or sets aside a judgment or grants a new trial;

(4) An order that grants or denies a provisional remedy and to which both of the following apply:

(a) The order in effect determines the action with respect to the provisional remedy and prevents a judgment in the action in favor of the appealing party with respect to the provisional remedy.

(b) The appealing party would not be afforded a meaningful or effective remedy by an appeal following final judgment as to all proceedings, issues, claims, and parties in the action.

{¶10} In its order dated July 2, 2015, the trial court ordered the following:

1. Judgment is entered in favor of plaintiff Secretary of Veterans Affairs against defendant Trish Shaffer in the amount of \$72,974.08 plus interest at 9½% per annum on the principal from 8-30-13 until paid.
2. The plaintiff is entitled to foreclose its mortgage against the subject property and shall prepare the appropriate order of foreclosure.
3. Court costs are assessed against the defendant Trish Shaffer.
4. This is a final order to be served on all parties.

{¶11} During oral argument, both parties agreed a final judgment entry decree of foreclosure was not filed in the case, and one is not docketed in the record. As a result, this court is without jurisdiction to hear this matter. *Hudson City Savings Bank v. Havener*, 11th Dist. Geauga No. 2015-G-0044, 2016-Ohio-270, ¶ 20 ("until a final decree of foreclosure is issued by the trial court, this court is without jurisdiction to consider the merits in this matter").

{¶12} This appeal is dismissed.

By Farmer, P.J.

Gwin, J. and

Delaney, J. concur.

SGF/db 218