

[Cite as *Hirt v. Hirt*, 2003-Ohio-4094.]

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
FULTON COUNTY

Janna E. Hirt

Court of Appeals No. F-02-032

Appellee

Trial Court No. 01-DV-000098

v.

Michael C. Hirt

DECISION AND JUDGMENT ENTRY

Appellant

Decided: August 1, 2003

* * * * *

Gregg D. Hickman, for appellee.

Gary L. Smith, for appellant.

* * * * *

HANDWORK, P.J.

{¶1} This matter is before the court sua sponte. Because we lack the jurisdiction to consider appellant's assignments of error, we must dismiss the instant appeal.

{¶2} On May 14, 2001, appellee, Janna E. Hirt, filed a complaint for divorce. Appellee asked the trial court for, among other things, an equitable division of the martial property. Appellant, Michael C. Hirt, answered the complaint. He also requested an equitable division of the marital property.

{¶3} One of the marital assets listed by both parties was the marital residence located at 107 Hickory Street in Swanton, Fulton County, Ohio. The trial court entered a

judgment of divorce on November 14, 2002. In his factual findings, the trial judge also lists the Hickory Street residence as a marital asset. However, the court's judgment fails to award the marital residence to either of the parties.

{¶4} Civ.R. 75(F), as amended July 1, 2001, and applicable to all pending cases, see Civ.R. 86(Y), provides, in material part:

{¶5} "For the purposes of Civ.R. 54(B), the court shall not enter final judgment

{¶6} as to a claim for divorce, *** unless one of the following applies:

{¶7} "(1) The judgment also divides the property of the parties, ***."

{¶8} In the case on appeal, the trial court failed to divide all of the property of the parties. Therefore, the judgment in this case is not a final judgment for the purpose of Civ.R. 54(B). Moreover, the certification that would render an order final and appealable under Civ.R. 54(B) is not available in this cause. See Civ.R. 75(F)(3).

{¶9} Because "[a] reviewing court possesses jurisdiction only to reverse, modify, or affirm a judgment which constitutes a final, appealable order," we cannot consider appellant's assignments of error. *State ex rel. A & D Ltd. Partnership v. Keefe* (1996), 77 Ohio St.3d 50, 52. Accordingly, this case is hereby dismissed. Janna Hirt and Michael Hirt are ordered to pay the costs of this appeal in equal shares.

APPEAL DISMISSED.

Peter M. Handwork, P.J.

JUDGE

Judith Ann Lanzinger, J.

Arlene Singer, J. _____
CONCUR.

JUDGE

JUDGE