

[Cite as *Citifinancial Mtge. Co. v. Allen*, 2008-Ohio-5998.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 90979

CITIFINANCIAL MORTGAGE CO., INC.

PLAINTIFF-APPELLEE

VS.

CHARLES T. ALLEN, ET AL.

DEFENDANTS-APPELLANTS

**JUDGMENT:
AFFIRMED**

Civil Appeal from the
Cuyahoga County Common Pleas Court
Case No. CV-582114

BEFORE: Calabrese, J., Gallagher, P.J., and Kilbane, J.

RELEASED: November 20, 2008

JOURNALIZED:

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N.B. This entry is an announcement of the court's decision. See App.R. 22(B), 22(D) and 26(A); Loc.App.R. 22. This decision will be journalized and will become the judgment and order of the court pursuant to App.R. 22(E) unless a motion for reconsideration with supporting brief, per App.R. 26(A), is filed within ten (10) days of the announcement of the court's decision. The time period for review by the Supreme Court of Ohio shall begin to run upon the journalization of this court's announcement of decision by the clerk per App.R. 22(E). See, also, S.Ct. Prac.R. II, Section 2(A)(1).

ANTHONY O. CALABRESE, JR., J.:

{¶ 1} Pro se defendant Charles T. Allen (appellant) appeals the court's granting summary judgment to plaintiff-appellee Citifinancial Mortgage Company, Inc., in this foreclosure action. After reviewing the facts of the case and pertinent law, we affirm.

I

{¶ 2} On January 19, 2006, Citifinancial filed suit against appellant for defaulting on his mortgage payments. On July 17, 2006, Citifinancial filed a summary judgment motion. This motion went unopposed, and on May 31, 2007, the magistrate issued a decision granting Citifinancial's summary judgment motion. However, the court did not adopt the magistrate's decision and, according to the record, settlement negotiations took place for the next several months. However, on November 13, 2007, the magistrate once again issued a decision granting summary judgment to Citifinancial. On November 21, 2007, the magistrate issued findings of fact and conclusions of law associated with this decision. On January 11, 2008, the trial court adopted the magistrate's decision and entered a decree of foreclosure for Citifinancial. Appellant did not file objections to the magistrate's decision; rather, he filed the instant appeal.

II

{¶ 3} In appellant's sole assignment of error, he argues that the "lower court erred as a matter of law when it issued judgment in the appellee's favor which are [sic] not supported by reliable, probative and substantial evidence and is not in

accordance with law. (a) Said judgment constituted an abuse of discretion. (b) Court failed to consider the relevant ‘factors of significance’ which were pleaded by the appellant.”

{¶ 4} In *Delaney v. Cuyahoga Metro. Housing Auth.* (July 7, 1994), Cuyahoga App. No. 65714, we held that “an appellate court will ordinarily indulge a pro se litigant where there is some semblance of compliance with the appellate rules.” However, pro se litigants are presumed to have knowledge of the law and legal procedures and are held to the same standards as litigants who are represented by counsel. *Quinn v. Paras*, Cuyahoga App. No. 82529, 2003-Ohio-4952.

{¶ 5} Because it is a fatal determination of the instant appeal, we sua sponte raise the issue of failure to file objections to the magistrate’s decision. Pursuant to Civ.R. 53(D)(3)(b)(iv), “a party shall not assign as error on appeal the court’s adoption of any factual finding or legal conclusion *** unless the party has objected to that finding or conclusion as required by Civ.R. 53(D)(3)(b).” The failure to object to the magistrate’s decision deprives the court of the opportunity to correct any errors and waives the right to appeal the issues contained in the decision. See *O’Brien v. O’Brien*, 167 Ohio App.3d 584, 2006-Ohio-1729.

{¶ 6} As stated above, a review of the record in the instant case reveals that appellant failed to file objections to the magistrate’s decision. Additionally, the following language is found at the end of the magistrate’s November 21, 2007 findings of fact and conclusions of law: “Final appealable order: a party shall not assign as error on appeal the court’s adoption of any finding of fact or conclusion of

law unless the party timely and specifically objects to that finding or conclusion as required by Civ.R. 53.”

{¶ 7} Accordingly, appellant’s assignment of error is overruled.

Judgment affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate be sent to said court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

ANTHONY O. CALABRESE, JR., JUDGE

SEAN C. GALLAGHER, P.J., and
MARY EILEEN KILBANE, J., CONCUR