

STATE OF OHIO)
)ss:
COUNTY OF LORAIN)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

PAULA D. BAKER

C.A. No. 09CA009603

Appellant

v.

MACKIE P. BAKER

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF LORAIN, OHIO
CASE No. 07DR068203

Appellee

DECISION AND JOURNAL ENTRY

Dated: December 30, 2009

MOORE, Presiding Judge.

{¶1} Appellant, Paula Baker, appeals from the decision of the Lorain County Domestic Relations Court. This Court dismisses the appeal for lack of jurisdiction.

I.

{¶2} On August 23, 2007, Appellant, Paula Baker (“Wife”), filed the instant divorce action. The trial court determined that Wife and Appellee, Mackie Baker (“Husband”), entered into a common law marriage as of December 31, 1982. The parties separated in February of 2007. On September 4, 2008, the matter proceeded to a settlement conference. To this end, the parties submitted settlement conference statements, including settlement proposals. Each party mentioned a boat, trailer, and lawn tractor in their proposed settlements but the proposed settlement statements differed with regard to the proposed distribution of these items.

{¶3} On November 10, 2008, the trial court held a trial and on May 29, 2009, issued a judgment entry granting the parties a divorce. The judgment entry further purported to divide the

parties' marital property, and ordered Wife to pay Husband spousal support. Wife appealed from this entry, and has raised three assignments of error for our review. We have combined the errors to facilitate our review.

II.

ASSIGNMENT OF ERROR I

“THE TRIAL COURT ERRED TO THE PREJUDICE OF [WIFE] BY AWARDING [HUSBAND] SPOUSAL SUPPORT.”

ASSIGNMENT OF ERROR II

“THE TRIAL COURT ERRED TO THE PREJUDICE OF [WIFE] BY ORDERING [WIFE] TO CONTRIBUTE TO THE PAYMENT OF THE MORTGAGE AND OTHER EXPENSES OF THE MARITAL RESIDENCE.”

ASSIGNMENT OF ERROR III

“THE TRIAL COURT ERRED TO THE PREJUDICE OF THE [WIFE] IN FAILING TO MAKE A DISTRIBUTIVE AWARD OF THE PARTIES' TRACTOR, BOAT AND TRAILER.”

{¶4} In her assignments of error, Wife argues the trial court's judgment was prejudicial for several reasons. We conclude that we are without jurisdiction to review the merits of Wife's arguments.

{¶5} The Ohio Constitution limits an appellate court's jurisdiction to the review of final judgments of lower courts. Section 3(B)(2), Article IV. Accordingly, this Court has jurisdiction to review only final and appealable orders. See *Harkai v. Scherba Industries, Inc.* (2000), 136 Ohio App.3d 211, 219. “For a judgment to be final and appealable, the requirements of R.C. 2505.02 and Civ.R. 54(B), if applicable, must be satisfied.” (Citation omitted.) *Konstand v. Barberton*, 9th Dist. No. 21651, 2003-Ohio-7187, at ¶4. This Court has repeatedly found, most notably in *Harkai*, 136 Ohio App.3d at 216, that in order to constitute a final appealable order

“‘[t]he content of the judgment must be definite enough to be susceptible to further enforcement and provide sufficient information to enable the parties to understand the outcome of the case. If the judgment fails to speak to an area which was disputed, uses ambiguous or confusing language, or is otherwise indefinite, the parties and subsequent courts will be unable to determine how the parties’ rights and obligations were fixed by the trial court.’” *Harkai* 136 Ohio App.3d at 216, quoting *Walker v. Walker* (Aug. 5, 1987), 9th Dist. No. 12978, at *2.

{¶6} A divorce decree, which leaves issues unresolved, is not a final order. *Muhlfelder v. Muhlfelder* (March 15, 2002), 11th Dist. Nos. 2000-L-183, 2000-L-184, at *1. Civ. R. 75(F)(1) provides that a trial court:

“*** shall not enter final judgment as to a claim for divorce, dissolution of marriage, annulment, or legal separation unless one of the following applies:

“(1) The judgment also divides the property of the parties, determines the appropriateness of an order of spousal support, and, where applicable, either allocates parental rights and responsibilities, including payment of child support, between the parties or orders shared parenting of minor children[.]”

{¶7} In this case, as Wife correctly asserts, the trial court failed “to make a distributive award of the parties’ tractor, boat and trailer.” We agree that the trial court did not properly divide this property, which both parties mentioned in their settlement conference statements.

{¶8} According to Wife’s assigned error, the parties allegedly submitted a stipulated agreement listing the boat, trailer, and tractor as items they had agreed to distribute. The transcript of the trial reveals that the trial court reviewed a stipulated agreement. The trial court stated in its entry that “[o]n November 10, 2008, the parties submitted a stipulated agreement regarding the various assets of the parties. The court finds that all items listed on the stipulated agreement are marital property subject to division by this order.” However, this stipulated agreement is not in the record before this Court. While the trial court refers to the stipulated agreement, it does not attach the document or otherwise reference disposition of the items in such a way as to allow this Court “to determine how the parties’ rights and obligations were

fixed by the trial court.” *Harkai*, 136 Ohio App.3d at 216. Further, the trial court’s judgment does not comport with Civ.R. 75(F), because it does not fully divide the parties’ property, i.e., the tractor, boat, and trailer. Accordingly, we find that the trial court’s judgment was not final and we dismiss for lack of jurisdiction.

III.

{¶9} Wife’s assignments of error are not addressed. This Court lacks jurisdiction over the appeal. The appeal, therefore, is dismissed.

Appeal dismissed.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(E). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

CARLA MOORE
FOR THE COURT

CARR, J.
DICKINSON, J.
CONCUR

APPEARANCES:

JAMES A. DEERY and DANIEL J. GIBBONS, Attorneys at Law, for Appellant.

JENNIFER L. LAWOTHER, Attorney at Law, for Appellee.