

**IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
GEAUGA COUNTY**

JOLENE K. MAKUCH,

Plaintiff-Appellee,

- vs -

JOHN MAKUCH, III, et al.,

Defendant-Appellant.

CASE NO. 2023-G-0007

Civil Appeal from the
Court of Common Pleas

Trial Court No. 2018 DC 000704

**MEMORANDUM
OPINION**

Decided: August 7, 2023
Judgment: Appeal dismissed

Kimberly A. Baioni, Baioni Law, 7445 Center Street, Mentor, OH 44060 (For Plaintiff-Appellee).

Joseph G. Stafford, *Nicole A. Cruz*, and *Kelley R. Tauring*, Stafford Law Co., L.P.A., North Point Tower, 1001 Lakeside Avenue, Suite 1300, Cleveland, OH 44114 (For Defendant-Appellant).

John V. Heutsche, Hoyt Block Building, 700 West St. Clair Avenue, Suite 220, Cleveland, OH 44113 (Guardian Ad Litem).

MARY JANE TRAPP, J.

{¶1} Appellant, John Makuch, III, through counsel, filed an appeal from a March 3, 2023 entry. This action stems from a complaint for divorce filed by appellee, Jolene K. Makuch, in 2018. Appellant filed an answer and counterclaim. A trial commenced, and a Magistrate’s Decision was issued requiring the parties to present additional evidence and testimony. Appellant filed objections.

{¶2} In the March 3, 2023 entry, the trial court adopted the magistrate’s decision and found that the “parties failed to present sufficient evidence * * * at trial regarding the nature, extent and value of the marital property (and separate property) and debts and their income as required by R.C. 3105.171.” The court ordered that a future hearing date be set where the parties “will be required to present complete evidence regarding these matters to enable the [trial court] to adjudicate the issues of division of property and debts, child support, spousal support, and attorney fees.” The instant appeal then ensued.

{¶3} This court issued an entry ordering appellant to show cause why this appeal should not be dismissed for lack of a final appealable order. Appellant filed a brief in support of jurisdiction indicating that ordering him to submit evidence to support appellee’s claims is in violation of his due process rights, and therefore, affect a substantial right in a special proceeding.

{¶4} Initially, we must determine whether there is a final appealable order since this court may entertain only those appeals from final judgments or orders. *Noble v. Colwell*, 44 Ohio St.3d 92, 96 (1989). Under Section 3(B)(2), Article IV of the Ohio Constitution, a judgment of a trial court can be immediately reviewed by an appellate court only if it constitutes a “final order” in the action. *Germ v. Fuerst*, 11th Dist. Lake No. 2003-L-116, 2003-Ohio-6241, ¶ 3. If a lower court’s order is not final, then an appellate court does not have jurisdiction to review the matter, and the matter must be dismissed. *Gen. Acc. Ins. Co. v. Ins. Co. of N. Am.*, 44 Ohio St.3d 17, 20 (1989). For a judgment to be final and appealable, it must satisfy the requirements of R.C. 2505.02 and if applicable, Civ.R. 54(B). See *Children’s Hosp. Med. Ctr. v. Tomaiko*, 11th Dist. Portage No. 2011-P-0103, 2011-Ohio-6838, ¶ 3.

{¶5} R.C. 2505.02(B) defines a “final order” and sets forth seven categories of appealable judgment, and if the judgment of the trial court satisfies any of them, it will be deemed a “final order” and can be immediately appealed and reviewed.

{¶6} Here, the March 3, 2023 entry does not fit within any of the categories for being a final order pursuant to R.C. 2505.02. Generally, in a divorce action, no final appealable order exists until all issues relating to property division, support and parental rights and responsibilities have been addressed pursuant to Civ.R. 75(F). *Miller v. Miller*, 11th Dist. Portage No. 2003-P-0065, 2003-Ohio-6765, at ¶ 3. A trial court’s entry that leaves issues unresolved and contemplates that further action must be taken is not final. See *Montalbine v. Montalbine*, 11th Dist. Lake No. 2022-L-020, 2022-Ohio-1464, ¶ 14. In the instant matter, since the entry must satisfy Civ.R. 75(F) and further action is contemplated, this court is without jurisdiction to consider the merits. Appellant will have a meaningful and effective remedy by means of an appeal once a final judgment is reached.

{¶7} Based upon the foregoing analysis, the judgment of the trial court is not a final appealable order, and this appeal is dismissed, sua sponte, for lack of jurisdiction.

{¶8} Appeal dismissed.

JOHN J. EKLUND, P.J.,

MATT LYNCH, J.,

concur.