

Farmer, J.

{¶1} On November 7, 2011, appellee, Farm Credit Services of Mid-America, FLCA, filed a foreclosure complaint against appellants, Michael and Barbara Fox, as well as others not pertinent to this appeal. On March 16, 2012, appellants filed their answer and counterclaim.

{¶2} On April 18, 2012, appellee filed a motion for summary judgment. On May 7, 2012, appellants filed a Civ.R. 56(F) motion for discovery. The following day, on May 8, 2012, the trial court issued a scheduling order, setting September 12, 2012 as the discovery completion date and June 6, 2012 as the non-oral hearing date for dispositive motions. On June 8, 2012, without specifically ruling on the Civ.R. 56(F) discovery motion, the trial court granted summary judgment to appellee.

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

I

{¶4} "THE TRIAL COURT ABUSED ITS DISCRETION IN FAILING TO RULE ON APPELLANTS' CIV.R. 56(F) MOTION FOR DISCOVERY, WHICH WAS AN IMPLICIT DENIAL OF SAID MOTION FOR DISCOVERY, PRIOR TO GRANTING APPELLEE'S MOTION FOR SUMMARY JUDGMENT."

I

{¶5} Appellants claim the trial court erred in granting appellee's motion for summary judgment without first ruling on their request for discovery and additional time pursuant to Civ.R. 56(F). We agree.

{¶6} Civ.R. 56(F) states the following:

Should it appear from the affidavits of a party opposing the motion for summary judgment that the party cannot for sufficient reasons stated present by affidavit facts essential to justify the party's opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or discovery to be had or may make such other order as is just.

{¶7} In reviewing the docket, we find the trial court, on May 8, 2012, the day immediately after the filing of appellants' motion for a Civ.R. 56(F) extension, filed the following scheduling order:

Deadline for Completion of Discovery	September 12, 2012
Responses to Dispositive Motions	May 29, 2012
Replies to Responses to Dispositive Motions	June 5, 2012
Motions Hearing Date Non-Oral (no appearance required)	June 6, 2012

{¶8} The trial court granted summary judgment to appellee on June 8, 2012, after the time set for ruling on dispositive motions, but some three months before the discovery completion date. The scheduling order can be viewed as a granting of the Civ.R. 56(F) motion when it set a discovery completion date for September 12, 2012, and the granting of the summary judgment motion can be justified by the dispositive motion order.

{¶9} We note a fundamental tenet of judicial review in Ohio is that courts should decide cases on their merits. *DeHart v. Aetna Life Insurance Co.* (1982), 69 Ohio St.2d 189. Upon review, we find the confusion created by the scheduling order should be resolved in favor of appellants.

{¶10} The sole assignment of error is granted.

{¶11} The judgment of the Court of Common Pleas of Licking County, Ohio is hereby reversed.

By Farmer, J.

Delaney, P.J. and

Edwards, J. concur.

JUDGES

