

SUPREME COURT OF NEBRASKA

Clason v. LOL Investments, LLC

308 Neb. 904 (2021) · No. No. S-20-667 · Decided April 9, 2021

SUMMARY

The Nebraska Supreme Court affirmed the dismissal of Steven E. Clason’s appeal for lack of jurisdiction. The court held that an order resolving competing quiet title claims was not appealable under Neb. Rev. Stat. § 25-1315(1) because counterclaims for ejectment and unjust enrichment remained pending and the order lacked the required certification for immediate appeal. The court also held that partition-action precedents did not apply and noted that the unresolved attorney-fee request could independently prevent appealability.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Miller-Lerman, J.; Heavican, C.J.; Cassel, J.; Stacy, J.; Funke, J.; Papik, J.; Freudenberg, J.
JURISDICTION	Nebraska
DECIDED	April 9, 2021
DOCKET	No. S-20-667
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for further review of the Nebraska Court of Appeals' dismissal of Clason's appeal for lack of jurisdiction.
STANDARD OF REVIEW	A jurisdictional question that does not involve a factual dispute is determined as a matter of law.
PRECEDENTIAL VALUE	Published precedential opinion of the Nebraska Supreme Court.
PARTIES	Steven E. Clason v. LOL Investments, LLC, Producers Livestock Credit Corporation

TOPICS

final judgment rule appellate jurisdiction appellate procedure quiet title civil procedure

PRACTICE AREAS

Appellate procedure Civil procedure Real estate Quiet title Remedies

QUESTIONS PRESENTED

1. Whether the district court's August 12, 2020, order resolving the competing quiet title claims was a final, appealable order under Nebraska's final-order and partial-judgment statutes when PLCC's counterclaims for ejectment, unjust enrichment, and attorney fees remained pending.
2. Whether Nebraska's partition-action precedents permitting an appeal from an order determining title before completion of partition applied to this quiet title action.
3. Whether the unresolved request for attorney fees under Neb. Rev. Stat. § 25-824 independently prevented the order from being final and appealable.

HOLDINGS

1. An appeal from an order resolving fewer than all claims or the rights of fewer than all parties is permitted under § 25-1315(1) only when multiple claims or parties exist, the order is final as to one or more but fewer than all claims or parties, and the trial court expressly directs entry of judgment and expressly determines that there is no just reason for delay. Without that certification, no appeal lies until all claims have been disposed of as to all parties.
2. The rule permitting an appeal from a title determination at the first stage of a partition action does not apply to a quiet title action involving separate counterclaims for ejectment and unjust enrichment.
3. When a pre-judgment motion for attorney fees under Neb. Rev. Stat. § 25-824 remains unresolved, the judgment is not final and appealable; an unresolved request for such fees may independently prevent appellate jurisdiction.

KEY QUOTATIONS

“In the absence of an express determination that there is no just reason for delay upon an express direction for the entry of judgment, orders, however designated, adjudicating fewer than all claims or the rights of fewer than all the parties are not final.” (909-910)

“Therefore, by reference to § 25-1315(1), the August 12 order was not appealable until either all of PLCC’s counterclaims were resolved or the quiet title order was properly certified under § 25-1315(1).” (913-914)

FACTUAL BACKGROUND

Clason owned farm real estate securing agricultural loans under a deed of trust that, after assignments, was held by LOL Investments. After Clason defaulted, the trustee conducted a sale on October 24, 2019, and Producers Livestock Credit Corporation purchased the property. Clason challenged the sale and sought to quiet title in himself, while PLCC counterclaimed for quiet title, ejectment, unjust enrichment, and attorney fees. The district court resolved the competing quiet title claims but left the other counterclaims pending.

PROCEDURAL HISTORY

Clason brought a quiet title action in the District Court for Furnas County challenging the validity of a trustee's sale. Producers Livestock Credit Corporation counterclaimed for quiet title, ejectment, unjust enrichment, and attorney fees. The district court entered an order quieting title in PLCC, dismissing Clason's complaint, and

resolving only the competing quiet title claims. The Nebraska Court of Appeals dismissed Clason's appeal because PLCC's remaining counterclaims had not been resolved, and the Nebraska Supreme Court granted further review and affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Estate of Larson, ante p. 240, 953 N.W.2d 535 (2021)
- Peterson v. Damoude, 95 Neb. 469, 145 N.W. 847 (1914)
- TDP Phase One v. The Club at the Yard, 307 Neb. 795, 950 N.W.2d 640 (2020)
- Guardian Tax Partners v. Skrupa Invest. Co., 295 Neb. 639, 889 N.W.2d 825 (2017)
- Olsen v. Olsen, 248 Neb. 393, 534 N.W.2d 762 (1995)
- Wicker v. Waldemath, 238 Neb. 515, 471 N.W.2d 731 (1991)
- Salkin v. Jacobsen, 263 Neb. 521, 641 N.W.2d 356 (2002)
- Sulu v. Magana, 293 Neb. 148, 879 N.W.2d 674 (2016)
- In re Guardianship & Conservatorship of Woltemath, 268 Neb. 33, 680 N.W.2d 142 (2004)
- Murray v. Stine, 291 Neb. 125, 864 N.W.2d 386 (2015)

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