SUPREME COURT OF ALABAMA

Pavilion Development, L.L.C. v. JBJ Partnership

142 So. 3d 535 (Ala. 2013) · Decided October 11, 2013

SUMMARY

The Alabama Supreme Court dismissed an appeal arising from Pavilion Development's statutory redemption of foreclosed real property. The court held that the trial court abused its discretion by certifying its judgment as final under Rule 54(b) because the judgment failed to resolve all parties' potential lawful charges and interests in the property, including mortgages affecting certain lots. The unresolved issues prevented Pavilion from making an informed decision about whether to complete redemption.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Shaw, Justice; Moore, Chief Justice; Parker, Justice; Stuart, Justice; Wise, Justice
JURISDICTION	Alabama
DECIDED	October 11, 2013
DISPOSITION	dismissed
PROCEDURAL POSTURE	Pavilion appealed an amended trial-court judgment concerning the lawful charges required to redeem foreclosed real property. The Alabama Supreme Court considered whether the trial court's certification of that judgment as final under Rule 54(b), Ala. R. Civ. P., permitted an immediate appeal.
STANDARD OF REVIEW	Abuse of discretion for a Rule 54(b) certification and the trial court's determination that its judgment was final for immediate appeal.
PRECEDENTIAL VALUE	Published Alabama Supreme Court opinion
PARTIES	Pavilion Development, L.L.C. v. JBJ Partnership, EB Investments, L.L.C.

TOPICS

appellate procedure · civil procedure · real estate · remedies

PRACTICE AREAS

Civil procedure | Appellate procedure | Real estate redemption | Remedies

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by certifying its amended judgment as final under Rule 54(b) when the judgment failed to resolve the lawful charges and interests of all defendants in all parcels subject to the redemption claim.
2. Whether an appeal may proceed when the judgment does not provide the redeeming party with a complete determination of the liabilities necessary to make an informed decision whether to redeem the property.

HOLDINGS

1. A Rule 54(b) certification is improper when the judgment does not resolve all outstanding issues concerning the interests and lawful charges of the parties affected by a redemption claim. Because the amended judgment failed to address the interests and potential lawful charges of all defendants concerning lots 2 and 12, the trial court exceeded its discretion in certifying the judgment as final.
2. Absent an agreement allowing it, redemption of property sold as a single unit at foreclosure may not be accomplished piecemeal.

KEY QUOTATIONS

> *"Although this Court is clearly aware of the long and tortured history of the underlying litigation, we are similarly aware of the general disfavor with which both piecemeal appellate review and Rule 54(b) certifications are viewed."* (142 So. 3d at 542)

> *"In light of the fact that the trial court's order failed to address the claims of all the assorted parties claiming an interest in the subject property, we can reach no other conclusion but that the trial court exceeded its discretion in certifying its judgment as final for purposes of an immediate appeal."* (142 So. 3d at 542)

FACTUAL BACKGROUND

Gallop Enterprises mortgaged approximately 19 acres of Madison County property and later defaulted. Pace foreclosed, and JBJ Partnership purchased the property at a foreclosure sale; JBJ subsequently conveyed parcels and interests to several parties, including Atlantis Development Company, the City of Huntsville, and others who later held mortgages or other interests. Pavilion acquired Gallop's statutory right of redemption and sought to redeem the entire tract, requiring determination of the lawful charges owed to all parties with interests in the property.

PROCEDURAL HISTORY

Pavilion brought an action in the Madison Circuit Court to redeem approximately 19 acres sold at foreclosure. After prior appellate proceedings established Pavilion's right to redeem, the trial court conducted a bench trial and entered an amended judgment specifying redemption charges. Following an earlier dismissal for nonfinality, the trial court amended the judgment to address three identified deficiencies, but it still failed to determine the lawful charges associated with all interests in lots 2 and 12, including mortgages held by EB Investments and JBJ. The Supreme Court held the Rule 54(b) certification improper and dismissed the appeal.

DISPOSITION

dismissed

CASES CITED

- EB Investments, L.L.C. v. Atlantis Development, Inc., 930 So. 2d 502, 504 (Ala. 2005)
- EB Investments, L.L.C. v. Pavilion Development, L.L.C., 77 So. 3d 133 (Ala. 2011)
- Pavilion Development, L.L.C. v. JBJ Partnership, 979 So. 2d 24 (Ala. 2007)
- Ex parte Atlantis Development Co., 897 So. 2d 1022 (Ala. 2004)
- Costa & Head (Birmingham One), Ltd. v. National Bank of Commerce of Birmingham, 569 So. 2d 360, 363 (Ala. 1990)
- Shealy v. Golden, 897 So. 2d 268, 272-73 (Ala. 2004)
- Ex parte Humana Medical Corp., 597 So. 2d 670, 671 (Ala. 1992)
- Ex parte R.B. Ethridge & Associates, Inc., 494 So. 2d 54 (Ala. 1986)
- Ex parte Marcrum, 372 So. 2d 313, 315 (Ala. 1979)
- Black v. Boyd, 251 F.2d 843 (6th Cir. 1958)