SUPREME COURT OF ALABAMA

First Commercial Bank of Huntsville v. Nowlin

122 So. 3d 829 (Ala. 2013) · Decided March 15, 2013

SUMMARY

The Alabama Supreme Court dismissed an appeal from a summary judgment because the judgment did not resolve all claims against all parties and lacked a Rule 54(b) certification. Claims remained pending against one defendant, making the judgment nonfinal as to the other defendants as well.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Bryan, Justice; Moore, C.J.; Bolin, J.; Murdock, J.; Main, J.
JURISDICTION	Alabama
DECIDED	March 15, 2013
DISPOSITION	dismissed
PROCEDURAL POSTURE	The Bank appealed from a trial court order granting summary judgment to several defendants and granting the Bank partial summary judgment against Wiggins. The Supreme Court of Alabama dismissed the appeal because the order did not resolve all claims against all parties and lacked a Rule 54(b) certification.
STANDARD OF REVIEW	The Supreme Court reviewed whether the trial court's order was a final, appealable judgment as a jurisdictional matter.
PRECEDENTIAL VALUE	Published Alabama Supreme Court opinion; precedential authority on finality and appealability of judgments under Rule 54(b).
PARTIES	First Commercial Bank of Huntsville v. Henry Moore Nowlin III, Douglas Ray Bachuss, Jr., Nowlin & Associates, LLC, First American Title Insurance Company

TOPICS

final judgment rule · appellate jurisdiction · summary judgment · civil procedure · commercial litigation

PRACTICE AREAS

civil procedure · appellate procedure · commercial litigation

QUESTIONS PRESENTED

1. Whether the trial court's summary-judgment order was a final, appealable judgment when claims against one party remained pending.
2. Whether the absence of an express Rule 54(b) certification rendered the order nonfinal despite the order resolving all claims against some defendants.

HOLDINGS

1. An order granting summary judgment to some defendants is not final when claims against another party remain unresolved, unless the trial court expressly certifies the judgment under Rule 54(b).

KEY QUOTATIONS

> *"The general rule is that a trial court's order is not final [for purposes of appeal] unless it disposes of all claims as to all parties."* (831)

> *"As noted, a nonfinal judgment will not support an appeal."* (832)

FACTUAL BACKGROUND

Quincy Wiggins obtained a second-mortgage loan from First Commercial Bank of Huntsville to finance real property. The Bank alleged that Wiggins represented that the property also would be financed by a $472,500 first mortgage from First Franklin Financial Corporation, but the actual first-mortgage loan was $607,500. After Wiggins defaulted on a refinanced loan, the Bank sued Wiggins, the attorneys and law firm involved in the closing, and First American Title Insurance Company.

PROCEDURAL HISTORY

The Bank sued Wiggins, Nowlin, Bachuss, Nowlin & Associates, and FATIC on contract, tort, and legal-services-liability theories. The trial court entered partial summary judgment for the Bank against Wiggins on the breach-of-contract claim, denied the Bank's partial-summary-judgment motion against the remaining defendants, and entered summary judgment for the remaining defendants. Because additional claims against Wiggins remained pending and no Rule 54(b) certification was entered, the Supreme Court dismissed the appeal as taken from a nonfinal judgment.

DISPOSITION

dismissed

CASES CITED

- Ex parte Green, 58 So. 3d 135, 144 (Ala. 2010)
- Bean v. Craig, 557 So. 2d 1249, 1253 (Ala. 1990)
- Dickerson v. Alabama State Univ., 852 So. 2d 704, 705 (Ala. 2002)