

SUPREME COURT OF ALABAMA

Bon Harbor, LLC and Michael F. Hinds v. United Bank

20 So. 3d 1263 (Ala. 2009) · No. 1070902 and 1070994 · Decided April 10, 2009

SUMMARY

The Supreme Court of Alabama dismissed two appeals arising from a dispute over loans, guaranties, and related claims between Bon Harbor, Michael F. Hinds, and United Bank. The court held that the first appeal was taken from a nonfinal partial summary judgment because claims remained pending, and that the trial court lacked jurisdiction to enter a later order while the first appeal was pending. The later order was therefore void and could not support an appeal.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Woodall, Justice; Cobb, Chief Justice; Smith, Justice; Parker, Justice; Shaw, Justice
JURISDICTION	Alabama
DECIDED	April 10, 2009
DOCKET	1070902 and 1070994
DISPOSITION	dismissed
PROCEDURAL POSTURE	Bon Harbor and Hinds appealed two summary-judgment orders entered in favor of United Bank. The Alabama Supreme Court reviewed whether either order was final and appealable and whether the trial court had jurisdiction to enter the second order while the first appeal was pending.
STANDARD OF REVIEW	Subject-matter jurisdiction is reviewed independently and cannot be waived; the court is not confined to the parties' jurisdictional arguments.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Bon Harbor, LLC, Michael F. Hinds v. United Bank

TOPICS

- appellate jurisdiction
- final judgment rule
- subject matter jurisdiction
- summary judgment
- civil procedure

PRACTICE AREAS

civil procedure

appellate procedure

commercial litigation

contracts

QUESTIONS PRESENTED

1. Whether the March 20, 2008, summary-judgment order was a final, appealable judgment when it did not dispose of Bon Harbor and Hinds's counterclaim.
2. Whether the trial court had jurisdiction to enter the March 25, 2008, order purporting to dispose of the counterclaim while the appeal from the March 20 order was pending.
3. Whether either appeal could be maintained when the underlying order was nonfinal or void.

HOLDINGS

1. A trial court's order is generally not final for purposes of appeal unless it disposes of all claims as to all parties, subject to the Rule 54(b) exception. A partial summary judgment that leaves claims pending is not a final, appealable judgment absent a proper Rule 54(b) determination.
2. After an appeal is taken, the trial court lacks jurisdiction to act concerning a matter involved in the appeal and subject to adjudication by the appellate court. An order entered without subject-matter jurisdiction is void.
3. A void order or judgment will not support an appeal.

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." (1265)

"Jurisdiction of a case can be in only one court at a time." (1266)

"Any action taken by a trial court without subject-matter jurisdiction is void." (1266)

"Finally, of course, a void order or judgment will not support an appeal." (1266)

FACTUAL BACKGROUND

United Bank loaned money to Bon Harbor, LLC, which used the funds to purchase real estate, and Michael F. Hinds executed continuing guaranties concerning Bon Harbor's indebtedness. The Bank sued Bon Harbor, Hinds, and other alleged guarantors for breach of a promissory note and guaranties, later seeking additional relief. Bon Harbor and Hinds filed a counterclaim against the Bank and three employees alleging breach of duty, fraud, and fraudulent suppression. The Bank's summary-judgment motion addressed only the Bank's contract claims and did not address the counterclaim.

PROCEDURAL HISTORY

United Bank sued Bon Harbor, Hinds, and other alleged guarantors over indebtedness arising from real-estate financing transactions. After the pleadings were amended and Bon Harbor and Hinds filed a counterclaim alleging breach of duty, fraud, and fraudulent suppression, the trial court entered a March 20, 2008, summary

judgment that did not address the counterclaim. Bon Harbor and Hinds appealed, and while that appeal was pending the trial court entered a second, more detailed order purporting to dispose of the counterclaim. The Supreme Court of Alabama dismissed both appeals.

DISPOSITION

dismissed

CASES CITED

- Riley v. Hughes, 17 So. 3d 643, 648-649 (Ala. 2009)
- Dickerson v. Alabama State University, 852 So. 2d 704, 705 (Ala. 2002)
- Baugus v. City of Florence, 968 So. 2d 529, 533 (Ala. 2007)
- Reynolds v. Colonial Bank, 874 So. 2d 497, 503 (Ala. 2003)
- Foster v. Greer & Sons, Inc., 446 So. 2d 605, 608 (Ala. 1984)
- Ex parte Andrews, 520 So. 2d 507 (Ala. 1987)
- Gallagher Bassett Services, Inc. v. Phillips, 991 So. 2d 697, 701 (Ala. 2008)