

SUPREME COURT OF THE UNITED STATES

Griggs v. Provident Consumer Discount Co.

459 U.S. 56 (1982) · No. 82-5082 · Decided November 29, 1982

SUMMARY

The Supreme Court held that a notice of appeal filed while a timely Federal Rule of Civil Procedure 59 motion remained pending had no effect under Federal Rule of Appellate Procedure 4(a)(4). The Court concluded that the premature notice was a nullity, vacated the Third Circuit's judgment, and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of the United States
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Federal
DECIDED	November 29, 1982
DOCKET	82-5082
DISPOSITION	vacated
PROCEDURAL POSTURE	Petition for a writ of certiorari to review the Third Circuit's exercise of appellate jurisdiction over an appeal filed while a timely Rule 59 motion remained pending.
STANDARD OF REVIEW	De novo interpretation of the Federal Rules of Appellate Procedure and appellate jurisdiction.
PRECEDENTIAL VALUE	binding
PARTIES	Griggs et al. v. Provident Consumer Discount Co.

TOPICS

- appellate procedure
- appellate jurisdiction
- final judgment rule
- truth in lending
- civil procedure

PRACTICE AREAS

- appellate procedure
- civil procedure
- consumer protection
- truth in lending

QUESTIONS PRESENTED

1. Whether a notice of appeal filed while a timely Rule 59 motion to alter or amend the judgment is pending has legal effect under Federal Rule of Appellate Procedure 4(a)(4).
2. Whether the Court of Appeals may use Federal Rule of Appellate Procedure 2 to waive the defect in a premature notice of appeal and exercise jurisdiction.

HOLDINGS

1. A notice of appeal filed before disposition of a timely Rule 59 motion has no effect; the appellant must file a new notice of appeal within the prescribed time after the motion is resolved.
2. The Court of Appeals may not invoke Federal Rule of Appellate Procedure 2 to give effect to a notice of appeal that Rule 4(a)(4) renders a nullity.

KEY QUOTATIONS

“The notice of appeal filed in this case on November 19, 1980, was not merely defective; it was a nullity.”
(61)

“In short, it is as if no notice of appeal were filed at all.” (61)

“And if no notice of appeal is filed at all, the Court of Appeals lacks jurisdiction to act.” (61)

FACTUAL BACKGROUND

The petitioners sought statutory damages under the Truth in Lending Act based on Provident's allegedly inaccurate and misleading disclosure of security interests in after-acquired property. The District Court granted petitioners' motion for summary judgment and later directed entry of final judgment under Rule 54(b). Provident timely moved under Rule 59 to alter or amend the judgment, but filed its notice of appeal before the District Court ruled on that motion.

PROCEDURAL HISTORY

The petitioners obtained summary judgment in the Eastern District of Pennsylvania on their Truth in Lending Act claim. After the District Court entered final judgment under Federal Rule of Civil Procedure 54(b), Provident filed a timely Rule 59 motion to alter or amend the judgment and then filed a notice of appeal while that motion was pending. The District Court denied the motion, and the Third Circuit accepted jurisdiction and reversed. The Supreme Court granted certiorari, vacated the judgment, and remanded.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The case was remanded for further proceedings consistent with the opinion, including consideration of the appellate jurisdictional consequences of the ineffective notice of appeal.

CASES CITED

- United States v. Hitchmon, 587 F.2d 1357 (5th Cir. 1979)
- Ruby v. Secretary of the United States Navy, 365 F.2d 385, 389 (9th Cir. 1966) (en banc), cert. denied, 386 U.S. 1011 (1967)
- Hattersley v. Bollt, 512 F.2d 209 (3d Cir. 1975)
- Edmond v. Moore-McCormack Lines, 253 F.2d 143 (2d Cir. 1958)
- Yaretsky v. Blum, 592 F.2d 65, 66 (2d Cir. 1979), cert. denied, 450 U.S. 925 (1981)
- Williams v. Town of Okoboji, 599 F.2d 238 (8th Cir. 1979)
- Alexander v. Aero Lodge No. 735, 565 F.2d 1364, 1371 (6th Cir. 1977), cert. denied, 436 U.S. 946 (1978)
- Dougherty v. Harper's Magazine Co., 537 F.2d 758, 762 (3d Cir. 1976)
- Stokes v. Peyton's Inc., 508 F.2d 1287 (5th Cir. 1975)
- Song Jook Suh v. Rosenberg, 437 F.2d 1098 (9th Cir. 1971)
- Foman v. Davis, 371 U.S. 178 (1962)
- Century Laminating, Ltd. v. Montgomery, 595 F.2d 563 (10th Cir.), cert. dismissed, 444 U.S. 987 (1979)
- Tose v. First Pennsylvania Bank, N.A., 648 F.2d 879, 882 n. 2 (3d Cir.), cert. denied, 454 U.S. 893 (1981)
- Browder v. Director, Illinois Department of Corrections, 434 U.S. 257, 264 (1978)
- United States v. Valdosta-Lowndes County Hospital Authority, 668 F.2d 1177, 1178 n. 2 (11th Cir. 1982)
- Beam v. Youens, 664 F.2d 1275 (5th Cir. 1982)
- Williams v. Bolger, 633 F.2d 410 (5th Cir. 1980)
- United States v. Jones, 669 F.2d 559, 561 (8th Cir. 1982)
- Calhoun v. United States, 647 F.2d 6, 10 (9th Cir. 1981)
- United States v. Moore, 616 F.2d 1030, 1032 n. 2 (7th Cir. 1980), cert. denied, 446 U.S. 987 (1980)
- Laser Alignment, Inc. v. Warlick, 32 Fed. Rules Serv. 2d 776 (4th Cir. 1981)
- Bankers Trust Co. v. Mallis, 435 U.S. 381, 387 (1978) (per curiam)
- United States v. Robinson, 361 U.S. 220, 224 (1960)
- Cobb v. Lewis, 488 F.2d 41, 45 (5th Cir. 1974)
- Crump v. Hill, 104 F.2d 36, 38 (5th Cir. 1939)
- United States v. Hollywood Motor Car Co., 458 U.S. 263 (1982) (per curiam)