

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

PNC BANK, N.A.,	:	APPEAL NO. C-110834
	:	TRIAL NO. A-1105964
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
STEVEN A. WINTER,	:	
	:	
and	:	
	:	
SARAH E. WINTER,	:	
	:	
Defendants-Appellants,	:	
	:	
and	:	
	:	
LEO GROTT, TRUSTEE OF THE	:	
WINTER TRUST AGREEMENT,	:	
PEOPLE’S COMMUNITY BANK, ET	:	
AL.,	:	
	:	
Defendants.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. See S.Ct.R.Rep.Op. 2, App.R. 11.1(E), and 1st Dist. Loc.R. 11.1.1.

Defendants-appellants Steven and Sarah Winter (“the Winters”) appeal the trial court’s default judgment in favor of plaintiff-appellee PNC Bank, N.A., (“PNC”) which resulted in an entry of a decree of foreclosure on the Winters’ real estate (“the property”). Because we determine that we do not have jurisdiction to hear this appeal, we dismiss it.

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In the case numbered A-1105964, PNC Bank filed a complaint against the Winters and their other creditors seeking to collect on a promissory note and foreclose on the mortgage that secured the promissory note. Because there was another pending lawsuit against the Winters involving the same promissory note, the Winters filed a motion under that case number asking the court to consolidate PNC's complaint into the case numbered A-0800266. The trial court assigned to the case numbered A-0800266 granted the motion to consolidate, but in the meantime the trial court in the case numbered A-1105964 had entered a default judgment and an entry of foreclosure against the Winters, ordering that their property be sold. After the order of consolidation was placed of record in the case numbered A-1105964, the Winters appealed the default judgment and entry of foreclosure. A few days prior to oral arguments before this court, PNC moved to dismiss the Winters' appeal, arguing that the default judgment and entry of foreclosure was not a final, appealable order.

Before this court can exercise jurisdiction over an appeal, an order of a lower court must be a final, appealable order and meet the requirements of R.C. 2505.02 and, if applicable, Civ.R. 54(B). *Chef Italiano Corp. v. Kent State Univ.*, 44 Ohio St.3d 86, 547 N.E.2d 64 (1989). R.C. 2505.02(B)(1) defines a "final order" as "an order that affects a substantial right in an action that in effect determines the action and prevents a judgment." When a case involves multiple parties, like the case at bar, Civ.R. 54(B) authorizes the trial court to "enter final judgment as to one or more but fewer than all of the * * * parties[, but] only upon an express determination that there is no just reason for delay." In other words, an entry of judgment involving fewer than all of the claims or parties is not final unless the court expressly determines that there is "no just reason for delay." *Jarrett v. Dayton Osteopathic Hosp., Inc.*, 20 Ohio St.3d 77, 486 N.E.2d 99 (1985).

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Here, the case numbered A-1105964 had been consolidated with the case numbered A-0800266, which involves multiple parties and issues that are still unresolved and pending. Because the default judgment and entry of foreclosure against the Winters does not contain the certification required by Civ.R. 54(B) that there is “no just reason for delay,” we are constrained to conclude that this order is not final and appealable. Accordingly, we do not have jurisdiction to hear this appeal and it must be dismissed. Because of our resolution of this matter, we overrule PNC’s motion to dismiss the appeal as moot.

The appeal is hereby dismissed.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HILDEBRANDT, P.J., DINKELACKER and FISCHER, JJ.

To the clerk:

Enter upon the journal of the court on August 15, 2012

per order of the court _____.
Presiding Judge