

ARKANSAS COURT OF APPEALS

No. CA 12-746

DIAMOND ENTERPRISES, INC.,
BRUCE SWINTON,
JEANETTE JACKSON,
and ELTON TAYLOR, SR.

APPELLANTS

V.

ARVEST BANK

APPELLEE

Opinion Delivered December 12, 2012

APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT, SECOND
DIVISION

[No. CV2009-6638-2]

HONORABLE CHRISTOPHER
CHARLES PIAZZA, JUDGE

MOTION FOR EXTENSION OF TIME
DENIED; APPEAL DISMISSED

PER CURIAM

On May 4, 2012, the Pulaski County Circuit Court entered a foreclosure decree in favor of appellee Arvest Bank for judgment on six promissory notes and the foreclosure of five mortgages against appellants Diamond Enterprises, Inc., Bruce Swinton, Jeanette Jackson, and Elton Taylor, Sr. On June 4, 2012, a notice of appeal was filed that was signed by Swinton, as corporate representative of Diamond Enterprises, Inc., and in his individual capacity; Jackson; and Taylor. A record was lodged and a briefing schedule was set by the clerk. Appellants' briefs were due on October 10, 2012.

On October 8, 2012, a motion for extension of time was filed that was signed by Swinton, in his corporate representative and individual capacities; Jackson; and Taylor. The motion was granted, extending the due date of appellants' briefs to November 24, 2012. On



November 26, 2012,¹ a second motion for extension was filed by Diamond Enterprises, Inc., and was signed by Swinton only in his capacity of corporate representative. Arvest Bank has responded by moving to dismiss the appeal, for sanctions, and for attorney's fees.

We grant Arvest Bank's motion to dismiss Diamond Enterprises, Inc.'s, appeal. Diamond Enterprises, Inc.'s, notice of appeal is null and void because it was filed in violation of Arkansas' prohibition of the unauthorized practice of law. None of the individuals who signed the notice of appeal are authorized to practice law in Arkansas. Furthermore, a corporation may not practice law. Ark. Code Ann. § 16-22-211 (Supp. 2011).²

The remaining appeals, filed by Swinton (in his individual capacity), Jackson, and Taylor, were properly before us with a brief due on November 24, 2012. However, the second motion to extend, filed on November 26, 2012, was filed only on behalf of Diamond Enterprises, Inc. Therefore, we dismiss the individual appeals of Swinton, Jackson, and Taylor for failure to timely file their appellants' briefs pursuant to Ark. Sup. Ct. R. 4-5 (2012).

Appellee's motions for sanctions and attorney's fees are denied.

Kutak Rock, LLP, by: *Roger Todd Wooten* and *Randal B. Frazier*, for appellee.

¹The November 26, 2012 filing was timely as per Rule 6(a) of the Arkansas Rules of Civil Procedure because November 24, 2012 was a Saturday.

²Because Diamond Enterprises, Inc.'s, notice of appeal is null and void, it was error to grant its first motion for extension to file appellant's brief.