

ARKANSAS COURT OF APPEALS

DIVISION IV

No. CA12-522

IDA KING and KENNETH CALDWELL
APPELLANTS

V.

LESLIE JACKSON and KAREN
JACKSON
APPELLEES

Opinion Delivered April 24, 2013

APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT,
FIFTH DIVISION
[NO. CV-11-192]

HONORABLE WENDELL GRIFFEN,
JUDGE

DISMISSED

BILL H. WALMSLEY, Judge

Appellants Ida King and Kenneth Caldwell appeal from the Pulaski County Circuit Court’s dismissal of their claim for ejectment. We dismiss for lack of a final, appealable order.

On January 14, 2011, appellants filed a complaint for ejectment and trespass against appellees Leslie Jackson and Karen Jackson, who were in possession of a three-acre tract of land to which appellants held a correction deed from their father filed August 6, 2008. Appellants’ understanding was that appellees had leased the property from their late father. In their answer, appellees claimed to have purchased the land from appellants’ father for \$6000 in 1996 and offered, as proof, a receipt signed by appellants’ father indicating that he had accepted a payment of \$4550 for “[b]alance on land - 3 acres.”

In its “Final Order,” the trial court found in favor of appellees. The trial court specifically stated that “the sole count in the complaint is one for ejectment” and that



appellants had failed to prove entitlement to that relief.

Whether an order is final and appealable is a jurisdictional question that the appellate court must raise sua sponte. *Brann v. Hulett*, 2012 Ark. App. 574. If a suit has more than one claim for relief, an order adjudicating fewer than all claims is not final. Ark. R. Civ. P. 54(b)(2) (2012).

In addition to appellants' action for ejectment is "Count II" of their complaint, which is an action for trespass, in which appellants sought an order enjoining appellees from trespassing and directing them to remove their property from the land.¹ This particular relief was not sought with regard to appellants' ejectment claim. Our supreme court imposes a strict requirement that, in order to achieve finality for purposes of appeal, the circuit court must dismiss or adjudicate, by written order, all the claims filed in a lawsuit—even where it appears that the court's order necessarily rendered an outstanding claim moot or impliedly dismissed it. *Spears v. Spears*, 2012 Ark. App. 181 (dismissing appeal for lack of final order where trial court granted divorce to wife but failed to rule on husband's counterclaim for divorce). Accordingly, we dismiss without prejudice.

Dismissed.

GLOVER and WHITEAKER, JJ., agree.

Johnson & Horn, PLLC, by: *Anthony Johnson*, for appellants.

Jeffrey Weber, for appellees.

¹Appellants' notice of appeal does not contain a statement that they have abandoned any pending but unresolved claims pursuant to Ark. R. App. P.–Civ. 3(e)(vi) (2012).