

ARKANSAS COURT OF APPEALS

DIVISION III
No. CA12-650

PAMELA MARSHALL CARROLL
APPELLANT

V.

RICHARD DALE CARROLL
APPELLEE

Opinion Delivered May 1, 2013

APPEAL FROM THE JEFFERSON
COUNTY CIRCUIT COURT
[NO. DR-2006-492-3]

HONORABLE WILLIAM BENTON,
JUDGE

DISMISSED

RITA W. GRUBER, Judge

The parties to this appeal, appellant Pamela Carroll and appellee Richard Carroll, were divorced in 2007 and have continued to dispute the division of a membership in a hunting club that was purchased during the marriage. In an opinion dated May 11, 2011, we reversed the trial court's finding that the club membership was nonmarital property, held that the club membership was marital property, and remanded to the trial court. *Carroll v. Carroll*, 2011 Ark. App. 356, 384 S.W.3d 50. After conducting a hearing on remand regarding the value of the membership, the trial court entered an order on April 30, 2012, recognizing our holding that the membership was marital property, confirming its previous ruling that marital property should be equally distributed, denying appellee's request for an unequal division of the membership, and directing that the interest in the club membership be sold in a public auction. On appeal, appellant contends that the trial court erred in ordering the property sold rather than ordering appellee to pay appellant one-half of the fair market value of the



membership, calculated at the time the divorce was granted in 2007. Because the order appealed from is not a final, appealable order, we dismiss the appeal.

Rule 2(a)(1) of the Arkansas Rules of Appellate Procedure—Civil provides that an appeal may be taken from a final judgment or decree entered by the trial court. When the order appealed from is not final, we have no jurisdiction to decide the merits. *Ford Motor Co. v. Washington*, 2013 Ark. 88, at 3. As a general rule, a conditional judgment, order, or decree, the finality of which depends on certain contingencies that may or may not occur, is not a final order for purposes of appeal. *Wadley v. Wadley*, 2010 Ark. App. 733, at 3.

In this case, the court’s order stated that the membership was to be sold by public auction on the property of Jackson Point Hunting Club according to the terms set forth in the Limited Partnership Agreement of Jackson Point Hunting Club. The court then directed the appellee “to make a Motion to the Court to appoint an auctioneer and give notice to [appellant] in order that [appellant] may make an objection, if desired, as to the auctioneer proposed by [appellee].” The court also said that if the highest bidder’s proposed purchase is approved by the Club “and the sale is confirmed by this Court, then all costs of sale must first be paid from the proceeds of the sale.” The court directed the balance of the proceeds to be divided between the parties after all costs had been paid.

An order announcing the court’s determination of the rights of the parties but contemplating further judicial action is not appealable. *Shafer v. Estate of Shafer*, 2010 Ark. App. 476, at 1. The trial court’s order in this case left matters undecided between the parties and tasks yet to be performed: appellee’s appointment of an auctioneer and potential



Cite as 2013 Ark. App. 286

objection by appellant; auction and potential sale of the membership; and confirmation of the sale by the court. This order is not a final order. Absent a Rule 54(b) certificate, which we do not have in this case, we have no jurisdiction to decide the merits, and we dismiss the appeal without prejudice.

Appeal dismissed.

HARRISON and BROWN, JJ., agree.

Brockman, Norton & Taylor, by: *C. Mac Norton*, for appellant.

Andrea Brock, P.A., for appellee.