

ARKANSAS COURT OF APPEALS

DIVISION I

No. CV-17-811

JOHN E. CRUM AND JANE CRUM
APPELLANTS

V.

RICHARD PAUL SIEMS AND
DOROTHY SIEMS
APPELLEES

Opinion Delivered: May 30, 2018

APPEAL FROM THE ARKANSAS
COUNTY CIRCUIT COURT,
NORTHERN DISTRICT
[NO. 01DCV-14-114]

HONORABLE DAVID G. HENRY,
JUDGE

DISMISSED WITHOUT PREJUDICE

MIKE MURPHY, Judge

Appellants John Crum and his wife, Jane, appeal from the Arkansas County Circuit Court's order resolving a land dispute between the Crums and appellees Dorothy Siems and her son Richard Siems. The order from which the appellants appeal does not adjudicate all the claims, however, and it is therefore not a final order. We dismiss without prejudice.

The Crums and the Siemses own adjacent land; the Crums' eastern boundary and the Siemses' western boundary were in dispute. After the Crums installed an irrigation system that the Siemses thought encroached on their land, the Siemses filed a complaint seeking to enjoin the Crums from trespassing on their land; for quiet title; for restoration of the land to its proper state; for judgment compensating the Siemses for the loss of the use of their property; for the costs of surveying the property and relocating survey markers; and for civil and punitive damages. The Crums answered and counterclaimed, asserting that the

line between their properties had been established by acquiescence or agreement, or alternatively, by adverse possession. After a hearing, the circuit court ruled in favor of the Siemses and denied all claims of boundary by acquiescence, boundary by agreement, and adverse possession. However, the court did not address the Siemses' claims for trespass, for which they sought injunctive relief and damages. Consequently, the judgment is not final, and we must dismiss the appeal.

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). Whether an order is final and subject to appeal is a jurisdictional question that the appellate court will raise sua sponte. *Delancey v. Qualls*, 2012 Ark. App. 328, at 5. As a general rule, an order is not final and appealable until the issue of damages has been decided. *Id.* Here, one of the underlying claims was trespass, and in trespass actions, plaintiffs may seek damages for the value of a thing damaged, broken, destroyed, or carried away. Ark. Code Ann. § 18-60-102 (Repl. 2015). Additionally, the Siemses requested that the court order the Crums to restore the Siemses' land to its proper state. Because the Siemses' complaint included these claims that were never addressed by the circuit court, the judgment now being challenged is not final. *See Brann v. Hulett*, 2012 Ark. App. 574, at 2. Therefore, we lack jurisdiction and dismiss the appeal.

Dismissed without prejudice.

KLAPPENBACH and VAUGHT, JJ., agree.

Taylor & Taylor Law Firm, P.A., by: *Andrew M. Taylor* and *Tasha C. Taylor*, for appellants.

PPGMR LAW, PLLC, by: *R. Scott Morgan* and *Micah L. Goodwin*, for appellees.