

ARKANSAS COURT OF APPEALS

EN BANC
No. CA08-1210

PAUL PHUOC LE

APPELLANT

V.

ASHLEY XUAN NGUYEN

APPELLEE

Opinion Delivered September 30, 2009

APPEAL FROM THE SEBASTIAN
COUNTY CIRCUIT COURT
[NO. CV2006-265]

HONORABLE J. MICHAEL
FITZHUGH, JUDGE

DISMISSED

PER CURIAM

Appellee Ashley Nguyen filed a petition for partition of real property and a division of the assets of a business, Le’s Imports, Inc., against appellant Paul Le. The trial court granted appellee’s petition, awarding judgment to her and imposing a constructive trust on some assets of the business on her behalf. Le appeals, but we must dismiss the appeal for lack of a final order. In doing so, we direct Le to include certain additional documents in his addendum, in the event he refiles the appeal.

After Nguyen filed her complaint, Le moved to join Paul Le Properties, Inc. (“PLP”), and Dr. L.B. Stringfellow, Jr., as defendants because they owned some of the property she claimed. The court directed that they be joined, and they filed counterclaims asserting their interests in the property. All of the parties later filed a stipulation stating that Stringfellow

should be dismissed as a party because he and Nguyen did not claim the same property. The stipulation is in the record but not the addendum. After trial, the court entered two orders, awarding judgment to Nguyen against Le, granting her a constructive trust on certain property co-owned by PLP and Gene Didion, and directing the sale of three vehicles, from which Nguyen and Le would equally split the proceeds. The court, however, did not enter an order dismissing Stringfellow, as the parties had stipulated.

Additionally, although the record contains no complaint against, or an answer by, Gene Didion, the trial court also adjudicated his rights to the property in question, and those orders listed him as a defendant. We do not know what claims the other parties made against Didion; what claims he may have made against them; or whether all of the claims concerning his interest in the property were decided.

The question of whether an order is final and subject to appeal is a jurisdictional question that this court will raise on its own. *Bevans v. Deutsche Bank Nat'l Trust Co.*, 373 Ark. 105, 281 S.W.3d 740 (2008). Absent a certificate from the circuit court directing that the judgment is final, an order that fails to adjudicate all of the claims as to all of the parties is not final for purposes of appeal. Ark. R. Civ. P. 54(b)(2). Here, the record does not reflect a Rule 54(b) certificate. It appears, therefore, that there is not yet a final order, and that this court has no jurisdiction to hear the appeal. We therefore dismiss this appeal without prejudice to refile at a later date.

We also take this opportunity to address the deficiencies in the addendum. An

Cite as 2009 Ark. App. 642

addendum must contain, in addition to the order appealed from, any other relevant pleadings, documents, or exhibits essential to an understanding of the case and the court's jurisdiction on appeal. Ark. Sup. Ct. R. 4-2(a)(8) (2009). If Le refiles this appeal, his addendum must include, along with the materials already contained in it, a final order and a timely notice of appeal therefrom; the parties' stipulation; all orders deciding the claims against and by Stringfellow; and all pleadings raising claims against and by Didion.

Appeal dismissed without prejudice.