

ARKANSAS COURT OF APPEALS

DIVISIONS III

No. CA10-230

DONALD L. TREAT and MELBA
TREAT

APPELLANTS

V.

KELLY D. HURST and TAMRA
HURST, his wife, and KELLY H.
HURST, KATISHA LINCK RAINS and
OPAL MARCHANT

APPELLEES

Opinion Delivered December 15, 2010

APPEAL FROM THE MARION
COUNTY CIRCUIT COURT
[NO. CV-08-15-1]

HONORABLE SHAWN ALLEN
WOMACK, JUDGE

APPEAL DISMISSED

JOSEPHINE LINKER HART, Judge

Donald L. and Melba Treat appeal from an order resulting from a trial of their boundary-line dispute. We note, however, that the order appealed from is not final. By its express terms, the order appealed from is “temporary.” It requires further action by the parties or, in the event that the parties cannot agree, future intervention by the court. in controversy. *Myers v. Yingling*, 369 Ark. 87, 251 S.W.3d 287 (2007). An order must be final for the appellate court to have jurisdiction; thus, we may consider this issue even though the parties have not raised it. *Deutsche Bank Nat’l Trust Bank v. Austin*, 2010 Ark. App. 753, 379 S.W.3d 699. Accordingly, we dismiss this appeal.

Under Rule 2(a)(1) and (2) of the Arkansas Rules of Appellate Procedure —Civil, an appeal may be taken from a final decree entered by the circuit court that dismisses the parties

from the court, discharges them from the action, or concludes their rights to the subject matter must be of such a nature as to not only decide the rights of the parties, but also to put the court's directive into execution, ending the litigation or a separable part of it. *Id.* The purpose of this rule of law is to discourage piecemeal litigation. *Id.* (citing *Petrus v. Nature Conservancy*, 330 Ark. 722, 726, 957 S.W.2d 688, 690 (1997)).

In this case, the trial court did not simply deny the Treats' petition to establish title to the disputed property. It also granted the Treats an easement by necessity to completely resolve the dispute between the parties. However, the location of the easement had yet to be established at the time the trial court entered its temporary order from which the Treats appeal. Therefore, to avoid piecemeal litigation, we must dismiss this appeal.

Appeal dismissed.

VAUGHT, C.J., and GLOVER, J., agree.