Cite as 2011 Ark. App. 789

ARKANSAS COURT OF APPEALS

DIVISION II
No. CA 11-305

ARTIS DAVIS APPELLANT V. LADELL BROWN APPELLEE	**Opinion Delivered** December 14, 2011 APPEAL FROM THE FAULKNER COUNTY CIRCUIT COURT [NO. CV-2003-0767] HONORABLE DAVID M. CLARK, JUDGE APPEAL DISMISSED

DOUG MARTIN, Judge

The Faulkner County Circuit Court was presented with two deeds concerning property referred to as "the McKinley Estate" located in Conway. Appellant Artis Davis and appellee Ladell Brown, as Trustee for the Heirs at Law of Lee Andrew Brown, Sr., owned the subject property, along with Lorell McKinley.[1] Both Davis and Brown had deeds from McKinley purporting to transfer her ownership of an undivided one-fourth interest in the McKinley Estate. The trial court concluded that the deed from McKinley to Davis was "a forgery and thus a nullity," while the deed from McKinley to Brown was valid. Davis argues that the trial court clearly erred by (1) ruling that Davis, as the plaintiff, had the burden of proving the validity of his deed; (2) "paying little attention" to the well-settled rule that the certification of an acknowledged instrument is conclusive of the facts stated therein; and

[1]Lorell McKinley is Davis's cousin and Brown's aunt.

(3) holding that the affidavits of McKinley and notary Rhonda Jacobs were inadmissible hearsay. We dismiss for lack of a final, appealable order.

On August 21, 2003, Davis initiated these proceedings by filing a "Complaint for Injunctive Relief and Temporary Restraining Order,"[2] which he subsequently amended to include a petition to quiet title. In his answer to this amendment, Brown denied the validity of Davis's deed. Thereafter, Davis filed a "Second Amended Complaint to Quiet Title and For Partition and Division in Kind" on September 28, 2004, and a third amended complaint, requesting similar relief, on August 29, 2006.

In an order dated December 17, 2010, the trial court denied Davis's petition to quiet title but did not rule on Davis's request for partition. A final judgment is one that dismisses the parties, discharges them from the action, or concludes their rights to the subject matter in controversy. Ark. R. App. P. –Civ. 2(a); *Rigsby v. Rigsby*, 340 Ark. 544, 11 S.W.3d 551 (2000) (holding that an order awarding son an equitable interest in the property, but failing to grant or deny his requested relief for partition, was not final and appealable, and thus the appeal was dismissed). The trial judge did not grant or deny Davis's request for partition of the McKinley Estate. There was no attempt to comply with Arkansas Rule of Civil Procedure 54(b), which allows entry of a final judgment as to one or more of the parties or claims but fewer than all of them and permits an appeal upon a determination by the trial court that there

[2]Davis failed to include the initial complaint, along with several other documents necessary for this court's review, in his addendum on appeal. In the event this case comes before the court of appeals again, we encourage Davis's counsel to review Ark. Sup. Ct. R. 4-2(a)(8) to ensure there are no further deficiencies.

is no just reason for delay. Also, Arkansas Rule of Appellate Procedure–Civil 3(e) was amended in 2010 and now requires that the appealing party state in his notice of appeal that he is abandoning any pending but unresolved claim. Ark. R. App. P.–Civ. 3(e)(vi). The failure to comply with these rules or to adjudicate all of the claims is jurisdictional and renders this matter not final for purposes of appeal. *Rigsby*, *supra*. Accordingly, we dismiss for lack of a final, appealable order.

Dismissed.

VAUGHT, C.J., and GLADWIN, J., agree.