

John Cecil CASH and Bobbie CASH, His Wife
v. Harvey H. CASH, et al

79-226

616 S.W. 2d 13

Supreme Court of Arkansas
Opinion delivered May 26, 1981

APPEAL & ERROR — INTERLOCUTORY ORDER NOT APPEALABLE —
DISMISSAL REQUIRED. — An order overruling a motion to
restrain a sale is an interlocutory order, not a final, appealable
order, and therefore, the appeal must be dismissed.

Appeal from Desha Chancery Court, McGehee District,
Donald A. Clarke, Chancellor; dismissed.

Holloway & Haddock, by: *James W. Haddock*, for appel-
lants.

Gibson Law Office, by: *Charles S. Gibson*, for appel-
lees.

JOHN I. PURTLE, Justice. The chancellor overruled appellants' motion to restrain the sale of certain lands which had been ordered sold in an earlier decree. This appeal is from the overruling of the motion to restrain said sale. Appellants contend the court erred in overruling the motion because there was no order appointing a successor commissioner who was conducting the sale and further that there was an appeal pending. We do not find error in either contention.

The original decree in which the sale of this property was ordered sold was entered on October 5, 1978. Appellees gave notice of appeal and subsequently obtained an extension of time within which to file the record. However, they never perfected the appeal but instead proceeded to order the land sold in compliance with the original decree. Appellants filed a motion to restrain the sale, and the motion was overruled after a hearing. This appeal is from the order overruling the motion to restrain the sale of the land. The order was interlocutory in nature and was in no manner a

final appealable order. *Boyett v. Boyett*, 269 Ark. 36, 598 S.W. 2d 86 (1980); Arkansas Rules of Appellate Procedure, Rule 2. Therefore, having no final order before us, the appeal must be dismissed.

Appeal dismissed.
