

ARK.] ROBERTS ENTERPRISES, INC. v. ARK. HWY. COMM'N 25
Cite as 277 Ark. 25 (1982)

ROBERTS ENTERPRISES, INC. v. ARKANSAS
STATE HIGHWAY COMMISSION

82-85

638 S.W.2d 675

Supreme Court of Arkansas
Opinion delivered September 13, 1982

1. APPEAL & ERROR — DENIAL OF MOTION TO DISMISS ACTION IS NOT A FINAL JUDGMENT. — The denial of a motion to dismiss an action is not a final judgment from which an appeal will lie. [Ark. R. App. P. Rule 2.]
2. JUDGMENT — FINALITY. — In order for a judgment to be final, it must dismiss the parties from the court, discharge them from the action, or conclude their rights to the subject matter in controversy.

Appeal from Conway Circuit Court; *Charles Eddy*,
Judge; appeal dismissed.

Paul F. Henson and Robert F. Fussell, for appellant.

Thomas B. Keys and Charles Johnson, for appellee.

STEELE HAYS, Justice. In June 1981 the Arkansas State Highway Commission filed condemnation proceedings against three outdoor advertising signs erected and maintained by Roberts Enterprises, Inc. under permits from the Highway Commission and leases from landowners adjacent to Interstate 40 in Conway County. The Highway Commission alleged the billboards were non-conforming and the taking was necessary to preserve natural beauty and promote health, safety and welfare pursuant to the Arkansas Highway Beautification Act.

In response, Roberts Enterprises, Inc. moved the Court to dismiss the complaint, strike the declaration of taking, and issue a writ of mandamus directing the Highway Commission to conduct an administrative hearing in accordance with the Administrative Procedures Act. The motions were denied and Roberts Enterprises, Inc. has appealed.

We do not reach the arguments raised because no final order has been entered by the trial court. See Rule 2, Rules of Appellate Procedure. The denial of a motion to dismiss an action is not a final judgment from which an appeal will lie. *Wicker v. Wicker*, 223 Ark. 219, 265 S.W.2d 6 (1954). In order for a judgment to be final, it must dismiss the parties from the court, discharge them from the action, or conclude their rights to the subject matter in controversy. *McConnell v. Sadle*, 248 Ark. 1182, 455 S.W.2d 880 (1970). *Piercy v. Baldwin*, 205 Ark. 413, 168 S.W.2d 1110 (1943). Here, the order does none of those and we are without jurisdiction to hear the appeal. *Arkansas Savings & Loan Association v. Cornell Savings & Loan Association*, 252 Ark. 264, 478 S.W.2d 431 (1972).

The appeal is dismissed.

ADKISSON, C.J., not participating.