

John Paul and Shirley LEONARD v. LEONARD'S
HARDWARE, INC., Jeannette E. Smith, et al.

92-252

828 S.W.2d 846

Supreme Court of Arkansas
Opinion delivered May 26, 1992

APPEAL & ERROR — MUST HAVE FINAL ORDER FOR APPEAL — ORDER GRANTING EXTENSION TO DOCKET A RECORD ON APPEAL IS NOT APPEALABLE. — An order granting an extension to docket a record on appeal is not an appealable order; the appellate court will not reach the merits of an appeal if the order appealed from is not final; 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 Pope Chancery Court; *Van B. Taylor*, Chancellor; dismissed.

Robert E. Irwin, for appellants.

Wright, Lindsey & Jennings, by: *Robert M. Honea* and *Mobley, Smith & Mobley*, by: *William F. Smith* and *Steve Edgar*, for appellees.

TOM GLAZE, Justice. John Paul and Shirley Leonard were awarded a decree below from which Jeannette Smith appealed. On January 22, 1992, Smith filed a motion to extend time for docketing the record on appeal. *See* Rule 5(b) of the Rules of Appellate Procedure. The trial court granted Smith's motion the next day. The Leonards now attempt to appeal from the trial court's granting Smith's motion, contending the court's order failed to comply with Rule 5(b).

[1] We are unable to reach the Leonards' argument in the manner sought because an order granting an extension to docket a record on appeal is not an appealable order. Ark. R. App. P. 2(a). We do not reach the merits of an appeal if the order appealed from is not final. *Austin v. First Nat'l Bank*, 305 Ark. 456, 808 S.W.2d 773 (1991). 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. *Jackson v. Yowell*, 307 Ark. 222, 818 S.W.2d 950 (1991).

Because the order the Leonards appealed from is not final, we dismiss this appeal.