SIXTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA

Case No. 6D23-1179
Lower Tribunal No. 2013-CA-4568-O

NED C. BOWERS,

Appellant,

v.

ORANGE COUNTY,

Appellee.

Appeal from the Circuit Court for Orange County.
Kevin B. Weiss, Judge.

May 5, 2023

SASSO, C.J.

This appeal presents the narrow issue of whether there is an appealable final judgment disposing of each count Ned Bowers raised in his fourth amended

complaint.[1] As explained below, we conclude there is no such final judgment and therefore dismiss the appeal.

We begin by acknowledging the jurisdictional quirk presented by this appeal. Bowers seeks review of an order denying his motion for entry of an amended final judgment. If there was a final judgment entered in the proceedings below, and the motion for entry of an amended final judgment followed, we would have jurisdiction to review the order as a post-judgment final order. On the other hand, if there was no final judgment entered below, the order denying the motion for entry of an amended final judgment does not vest this Court with jurisdiction as a final appeal because there is judicial labor remaining in the case. *See Liberty Mut. Ins. Co. v. Miller*, 278 So. 3d 948, 949 (Fla. 1st DCA 2019) ("A final order is one that 'constitutes the end of the judicial labor in the cause, and nothing further remains to be done by the Court to effectuate a termination of the cause as between the parties directly affected.'" (quoting *S.L.T. Warehouse Co. v. Webb*, 304 So. 2d 97, 99 (Fla. 1974))). Relatedly, Florida Rule of Appellate Procedure 9.130 would not vest this Court with jurisdiction either, because the order does not fall within the delineated categories prescribed by the rule. *See* Fla. R. App. P. 9.130. As a result, this is the

[1] This case was transferred from the Fifth District Court of Appeal to this Court on January 1, 2023.

rare case where we are required to address the substance of an appellant's argument in the context of our initial jurisdictional determination.

Turning to the substance, Bowers' fourth amended complaint alleged claims for trespass (count I); private nuisance (count II); inverse condemnation (count III); declaratory relief by judgment that Orange County had no prescriptive easement extending the 1969 easement (count IV); declaratory relief by judgment that Orange County had abandoned easement rights in the land within the 1969 easement which Bowers had improved hostilely (count V); negligence (count VI); and a statutory cause of action for pollution under section 403.412, Florida Statutes (2020), (count VII). Bowers properly concedes that counts III, IV, and V have been disposed of by way of final judgment. However, the parties disagree as to whether there is a final judgment related to counts I, II, and VI (the "tort claims") and count VII.

The circuit court entered three orders designated as "final judgments" in the underlying case: one on January 27, 2020, disposing of counts IV and V, and as to count III, finding a taking did occur and Bowers was entitled to compensation. The January 27, 2020 final judgment reserved jurisdiction to enter further judgments. The next order entitled an "amended final judgment" was entered on March 2, 2020. The March order restated the prior adjudications but also addressed counts II, VI, and VII. Finally, the court entered a "final judgment" on June 8, 2020, resolving full compensation for the count III taking.

Unaddressed by any of the orders that were entitled final judgments were the tort claims. Orange County recognizes this omission but nonetheless argues the tort claims have been disposed of by way of a final, appealable judgment. In support, it points to several documents, including a March 3, 2020 joint pretrial statement and a March 6, 2020 notice of settlement, that indicate the tort claims were settled.

Bowers disagrees. As to the tort claims, Bowers asserts that a notice of settlement does not equate to a stipulation of dismissal as contemplated by Florida Rule of Civil Procedure 1.420, and therefore nothing filed below had the effect of disposing of the tort claims.

Two general rules guide our analysis of the finality issue. First, an appealable final judgment is one "which ends the litigation between the parties and disposes of all issues involved such that no further action by the court will be necessary." *Caufield v. Cantele*, 837 So. 2d 371, 375 (Fla. 2002). Second, in multicount complaints, as long as at least one count remains for disposition, appellate courts do not have jurisdiction to consider other interrelated counts. *See, e.g.*, *Clermont Builders Supply, Inc. v. Gen. Constr. & Design, Inc.*, 423 So. 2d 518, 519 (Fla. 5th DCA 1982). So, because Bowers' fourth amended complaint presented seven interrelated counts, each would need to be disposed of before Bowers had an appealable final judgment.

Under this framework, we agree with Bowers that there was nothing filed below, either by Bowers or entered by the trial court, that disposed of the tort claims. We recognize that the record indicates the parties had settled those claims, but neither the terms of the settlement nor anything disposing of those claims followed. And while rule 1.420 provides a path for disposition of claims by way of stipulation, and without the need for court order, the parties also did not file a stipulation of dismissal in this case. Relatedly, we decline Orange County's invitation to stretch rule 1.420 to encompass some holistic analysis of the parties' actions and apparent understanding, rather than considering only whether, as the rule requires, a "stipulation of dismissal signed by all current parties to the action" was filed. *See* Fla. R. Civ. P. 1.420(a)(1); *see also Salinas v. Medina*, 15 So. 3d 896, 897 (Fla. 3d DCA 2009) (determining an oral dismissal was legally insufficient to dismiss a case where rule 1.420 required service of a notice of dismissal).

Because we conclude there is no reviewable final order disposing of the tort claims, we therefore lack jurisdiction to review the order denying motion for entry of a final judgment, as it is a nonfinal, non-appealable order. *See Liberty Mut. Ins. Co.*, 278 So. 3d at 949. Given this disposition, we need not address Count VII.

DISMISSED.

STARGEL and SMITH, JJ., concur.

Michael M. Brownlee, of The Brownlee Law Firm, P.A., Orlando, and Lindsey Lawton, of the Brownlee Law Firm, P.A., Tallahassee, for Appellant.

Jeffrey J. Newton, County Attorney, and Linda S. Brehmer Lanosa, Assistant County Attorney, for Orange County Attorney's Office, Orlando, for Appellee.

NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING AND DISPOSITION THEREOF IF TIMELY FILED