

IN THE SUPREME COURT OF THE STATE OF NEVADA

ERNEST T. GAMBILL AND TERESA
GAMBILL,
Appellants,
vs.
WALTER LEAKE,
Respondent.

No. 51837

FILED

OCT 13 2008

THACIEA LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order approving a settlement in a foreclosure action. Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.

On July 10, 2008, we issued an order which, among other things, directed appellants to show cause why this appeal should not be dismissed for lack of jurisdiction. Specifically, our July 10 order indicated that it appeared that a final, appealable judgment had not yet been entered in the underlying case. Appellants filed their response to our show cause order on September 8, 2008.

Appellants first contend that the district court's April 23, 2008, order was a final judgment. The April 23 order references the district court's approval of the parties' settlement in open court and stated, "upon satisfaction of the parties' agreement, this matter shall be dismissed." This court has held, however, that a district court's order

approving a proposed settlement is not a final appealable judgment.¹ The April 23 order is thus an interlocutory order and cannot be appealed until a final judgment is entered.²

Appellants alternatively contend that the district court's May 16, 2008, order ejecting appellant Ernest Gambill from the property was the final judgment and that this appeal was timely filed after that date. The May 16 order, however, still does not appear to be a final judgment, because it specifically only addressed respondent's claims against appellant Ernest Gambill, ordering him to vacate the property, to leave the property in good condition, and to pay restitution to respondent in the total amount of \$26,210. All claims against appellant Teresa Gambill, however, appear to remain pending below; thus, the May 16 order does not appear to be a final judgment.³ Moreover, it does not appear that this order has been certified as final under NRCP 54(b).⁴

¹Valley Bank of Nevada v. Ginsburg, 110 Nev. 440, 446, 874 P.2d 729, 733-34 (1994).

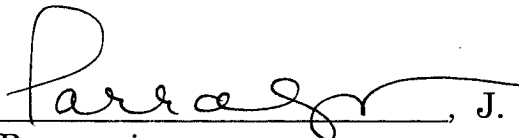
²See Lee v. GNLV Corp., 116 Nev. 424, 426, 996 P.2d 416, 417 (2000) (defining a final judgment as one that disposes of all the issues presented in the case and leaves nothing for the future consideration of the court).


³See Rae v. All American Life & Cas. Co., 95 Nev. 920, 922, 605 P.2d 196, 197 (1979) (stating "that, under rule 54(b), when multiple parties are involved in an action, a judgment is not final unless the rights and liabilities of all parties are adjudicated").

⁴See id.

Without a final judgment or a proper NRCP 54(b) certification, this court lacks jurisdiction to consider this appeal.⁵ Accordingly, we ORDER this appeal DISMISSED.⁶


_____, J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas

cc: Hon. Robert W. Lane, District Judge
Robert E. Glennen III
Walter Leake
Nye County Clerk

⁵See NRAP 3A(b) (allowing an appeal to be taken from a final judgment).

⁶In light of this order, we deny as moot attorney Robert Glennen's motion to withdraw as appellants' counsel.