

Circuit Court for Montgomery County
Case No.: C-15-CV-22-001354

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 1542

September Term, 2022

OMAHA PROPERTY MANAGER, LLC,
ET. AL.

v.

OMAHA PROPERTY MANAGER, LLC

Berger,
Arthur,
Kehoe,
JJ.

Opinion by Kehoe, J.

Filed: August 14, 2023

* At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

** This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

The substantive issue in this case is whether Omaha Property Manager, LLC, a Delaware limited liability company (“Delaware Omaha”) or Omaha Property Manager, LLC, a Maryland limited liability company (“Maryland Omaha”) is the rightful owner of a residential property located in Boyds, Maryland.

To resolve the dispute, Delaware Omaha filed a complaint to quiet title in the Circuit Court for Montgomery County against Maryland Omaha, one of its principals, Kamal Mustafa, and two additional entities, Omaha Property Manager, LLC, an Illinois limited liability company (“Illinois Omaha”), and NDF1, LLC. The procedural history is complicated but the events relevant to this appeal are as follows: None of the defendants filed answers. Delaware Omaha then requested an order of default pursuant to Md. Rule 2-613(b) against all defendants other than Mustafa. (Delaware Omaha did not seek an order of default against Mustafa because he had filed a petition for bankruptcy.) The circuit court granted the order and the clerk’s office issued a notice of entry of an order of default as to Maryland Omaha, Illinois Omaha, and NDF1. None of these parties filed a motion to vacate the default order. On October 20, 2022, the circuit court entered judgment against all defendants other than Mustafa. *See* Md. Rule 2-613(d) – (f).

Maryland Omaha and Mustafa filed notices of appeal. To this Court, they present one issue:

Whether the judgment entered in favor of Delaware Omaha in the Circuit Court [for] Montgomery County is void because Delaware Omaha is a non-entity of Maryland and has no legal standing?

We will dismiss the appeal on jurisdictional grounds.

“[A] party may appeal from a final judgment entered in a civil or criminal case by a circuit court.” Md. Code Ann., Courts & Jud. Proc. § 12-301. However, “it is a long-standing rule that the right to seek appellate review of a trial court’s ruling ordinarily must await the entry of a final judgment that disposes of all claims against all parties.” *Clark v. O’Malley*, 169 Md. App. 408, 418 (2006) (cleaned up), *aff’d sub nom. Mayor & City Council of Baltimore v. Clark*, 404 Md. 13 (2008). Accordingly, and subject to exceptions not relevant here,¹ “the right to appeal is activated after a final judgment [is] entered[.]” *Sapero & Sapero v. Bel Air Plumbing & Heating Contractors, Inc.*, 41 Md. App. 251, 260 (1979).

To qualify as a final judgment, the judgment must “determine and conclude rights involved, or deny the appellant means of further prosecuting or defending his rights and interests in the subject matter of the proceeding.” *State v. WBAL-TV*, 187 Md. App. 135, 143 (2009) (quoting *Quillens v. Moore*, 399 Md. 97, 115 (2007)). An order that “adjudicates the rights and liabilities of fewer than all the parties to the action . . . is not a final judgment[.]” Md. Rule 2-602(a). The same principle applies to default judgments

¹ The exceptions are “(1) appeals from interlocutory orders specifically allowed by statute; (2) immediate appeals permitted when a circuit court enters final judgment under Maryland Rule 2-602(b); and (3) appeals from interlocutory rulings allowed under the common law collateral order doctrine.” *In re O.P.*, 470 Md. 225, 250 (2020) (citing *Salvagno v. Frew*, 388 Md. 605, 615 (2005)). The default judgment entered in the present case was not a collateral order in the context of the collateral order doctrine. Nor was it a judgment certified by the trial court for an immediate appeal pursuant to Md. Rule 2–602. Finally, there is no statutory authorization for an interlocutory appeal of the sort of judgment entered in this case. *See* Courts & Jud. Proc. § 12-303.

which adjudicate the rights of fewer than all parties in the action. *See, e.g., Smith-Myers Corp. v. Sherill*, 209 Md. App. 494, 519 (2013); *Bethesda Title & Escrow, LLC v. Gochmour*, 197 Md. App. 450, 459 (2011).

Because the judgment entered against Maryland Omaha, Illinois Omaha, and NDF1 did not dispose of the claims against Mustafa, it was not a final judgment. “A premature notice of appeal has no force or effect.” Kevin F. Arthur, *FINALITY OF JUDGEMENTS AND OTHER APPELLATE TRIGGER ISSUES* 38 (3rd. Ed. 2018).

On April 12, 2023, Delaware Omaha filed a notice of dismissal of its pending claims against Mustafa. At that point, all claims against all parties were resolved and the judgment became final. No notice of appeal was filed after the judgment became final.²

Because appellants did not file a notice of appeal after the judgment became final, we must dismiss this appeal for lack of jurisdiction.³

APPEAL DISMISSED. COSTS TO BE PAID BY APPELLANTS.

² Pursuant to Md. Rule 5-201(b), we take judicial notice of the circuit court’s docket entries in this case.

³ Although neither party raises the issue of appellate jurisdiction, the “parties cannot confer jurisdiction on our Court, and we must dismiss a case sua sponte on a finding that we do not have jurisdiction[.]” *Miller & Smith at Quercus, LLC v. Casey PMN, LLC*, 412 Md. 230, 240 (2010).