Circuit Court for Howard County
Case No. C-13-CV-22-000973

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2432

September Term, 2024

MIGUELINA NIEVES

v.

BARRY I. BARKER

Arthur,
Ripken,
Hotten, Michele D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Arthur, J.

Filed: March 6, 2026

* 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).

This case involves a boundary dispute between two neighbors. The Circuit Court for Howard County concluded that the parties, through counsel, had reached a settlement agreement. One of the neighbors appealed.

We shall dismiss the appeal because the order in question is not a final judgment and is not otherwise appealable.

FACTUAL AND PROCEDURAL BACKGROUND

Appellant Miguelina Nieves and her husband, Ernesto Nieves, own real property in Howard County. Appellee Barry Barker has been their neighbor since 2011.

At some point in the past, Barker's predecessor-in-title constructed a fence that encroached on part of the Nieveses' property. The parties do not agree on when the fence was constructed—Barker says 1998; the Nieveses say 2002.

On November 9, 2022, the Nieveses filed suit against Barker in the Circuit Court for Howard County. The complaint requested damages for trespass and an injunction requiring Barker to remove the fence.

On December 21, 2022, Barker filed a counterclaim to quiet title to the disputed property. Barker claims to have acquired title by adverse possession.

On January 15, 2024, Barker moved to dismiss the complaint or, alternatively, for summary judgment on ground that the statute of limitations barred the claims. On April 5, 2024, the circuit court granted the motion and purported both to dismiss the Nieveses' complaint and to enter summary judgment in Barker's favor on all claims that the Nieveses had brought against him. The court proceeded to close the case even though it

had not yet adjudicated Barker's counterclaim to quiet title.

Ms. Nieves noted an appeal (ACM-REG-0484-2024). The appeal was premature because Barker's counterclaim was still pending. *See* Md. Rule 2-602(a) (stating that, in general, "an order or other form of decision, however designated, that adjudicates fewer than all of the claims in an action (whether raised by original claim, counterclaim, cross-claim, or third-party claim) . . . (1) is not a final judgment; (2) does not terminate the action as to any of the claims or any of the parties; and (3) is subject to revision at any time before the entry of a judgment that adjudicates all of the claims by and against all of the parties").

On August 9, 2024, while the premature appeal was pending, Ms. Nieves's attorney sent the following email to Barker's attorney:

> It's been a while since we've corresponded on this matter, but I'm hoping to resolve this and have Ms. Nieves drop her appeal and avoid you refiling an action for adverse possession. Ms. Nieves has had an appraisal completed of her property where it was determined that the portion of the land that Mr. Barker is possessing is valued at $540. Can we settle this?

Twenty minutes later, Barker's attorney responded to the email from Ms. Nieves's attorney. Barker's attorney wrote:

> Good to hear from you and thanks for reaching out. To confirm, it appears that the Nieves [sic] are proposing the following:
>
> 1. Mr. Barker would pay the Nieves [sic] $540.00.
>
> 2. In consideration for this $540.00, the Nieves [sic] would execute a quitclaim deed for the parcel of property enclosed by Mr. Barker's fence with the goal/understanding that he would have clear title to said parcel and all parties would then have clear title to their respective properties should they want to sell them, etc.

3. The parties would execute a settlement agreement dismissing the appeal and otherwise reducing the details of the settlement to writing (full release, etc.).

If that seems accurate, I believe my client would likely agree to it. However, I will say that I believe my client will likely insist on some sort of quiet enjoyment/no contact with the Nieves. He has informed me that they have "harassed" (his words) various contractors/landscapers [sic] of his and he has no interest in interacting with them. Please let me know if I am missing anything.

Five minutes later, Ms. Nieves's attorney responded as follows: "Agreed on all points. We are on the same page."

A few hours later, Barker's attorney sent a confirmatory e-mail, which read, in pertinent part, as follows: "My client agrees to resolve this matter per the terms below"—i.e., the terms outlined in the earlier emails between the attorneys. Barker's attorney went on to state: "I will draft an agreement with specifics for your review."

Ms. Nieves's attorney responded as follows: "Thank you . . . . [D]rafting as well. We can merge drafts."

On October 16, 2024, Barker moved to dismiss Ms. Nieves's appeal from the order dismissing the complaint or entering summary judgment against her and her husband. In support of his motion, Barker argued that the appeal was moot because the parties had reached a settlement.

On November 6, 2024, this Court denied the motion to dismiss but noted that Barker could move to enforce the settlement agreement in the circuit court. Neither the parties nor this Court noted that the circuit court had yet to adjudicate Barker's

counterclaim to quiet title.

On November 12, 2024, Barker filed a motion to enforce the settlement agreement in the circuit court. The motion included a proposed order in which the court would find that the parties had entered into the settlement agreement and would require the Nieveses to execute the agreement and the quitclaim deed within a specific period of time. The proposed order also included an award of attorneys' fees to Barker.

At the conclusion of a hearing on January 16, 2025, the circuit court granted the motion to enforce the settlement agreement. In reaching its decision, the court found that "on August 9, 2024, the parties reached a full and binding settlement agreement resolving all claims and disputes between them."

Although Barker had submitted a proposed order with his motion, a hearing sheet indicates that the court asked him to submit a second order after the hearing. Barker did so on January 20, 2025. The second order differs in material respects from the order that Barker submitted with his motion.

Most notably, although the second order finds that the parties entered into a binding settlement agreement that required Barker to pay $540.00 to the Nieveses and required the Nieveses to execute a quitclaim deed, the order omitted the provisions that required the Nieveses to execute the agreement and the quitclaim deed within a specific period of time. Instead, the new order stated that the agreement required the Nieveses to accept the $540.00 payment from Barker and to execute the quitclaim deed within 30 days after all parties had executed the settlement agreement. The order, however, does not actually require the Nieveses to execute the settlement agreement. And because the

time for executing the deed does not begin to run until the Nieveses execute the settlement agreement, the order, as a practical matter, does not actually require the Nieveses to execute the deed.

The court signed the second order on January 23, 2025, and the clerk entered it on the docket four days later.

On January 31, 2025, Ms. Nieves noted this appeal.

QUESTION PRESENTED

Ms. Nieves, representing herself, has filed a 12-page, single-spaced informal brief. The informal brief does not delineate the questions presented. Liberally interpreting the informal brief in light of the procedural context of this case, we understand the question to be whether the circuit court erred or abused its discretion in granting the motion to enforce the settlement agreement.

We cannot decide that question at this time because Ms. Nieves has no right to appeal from the order at issue.[1]

DISCUSSION

Before addressing the questions presented on appeal, we must decide an issue that neither party raised: whether the order concerning the settlement agreement is a final, appealable judgment. "Because the absence of a final judgment may deprive a court of

[1] Because Ms. Nieves's husband is allegedly a co-owner of the property in question, he would certainly appear to be a necessary party. *See* Md. Rule 2-211(a); Maryland Code (1974, 2023 Repl. Vol.), § 14-608(a) of the Real Property Article. In view of our conclusion that any appeal is premature at this time, we need not consider whether the appeal could somehow proceed in the absence of Ms. Nieves's husband.

appellate jurisdiction, we can raise the issue of finality on our own motion." *Zilichikhis v. Montgomery County*, 223 Md. App. 158, 172 (2015); *accord Matter of Broadway Servs. Inc.*, 265 Md. App. 343, 359 (2025).

Our power to decide appeals is derived solely from statute—principally, section 12-301 of the Courts and Judicial Proceedings Article of the Maryland Code (1974, 2020 Repl. Vol.) ("CJP"). Under CJP section 12-301, "a party may appeal from a final judgment entered in a civil or criminal case by a circuit court."

Section 12-301 expresses "a long-standing bedrock rule of appellate jurisdiction, practice, and procedure that, unless otherwise provided by law, the right to seek appellate review in [the Maryland appellate courts] ordinarily must await the entry of a final judgment that disposes of all claims against all parties." *Silbersack v. ACandS, Inc.*, 402 Md. 673, 678 (2008); *accord Carver v. RBS Citizens, N.A.*, 462 Md. 626, 633 (2019); *Miller Metal Fabrication, Inc. v. Wall*, 415 Md. 210, 220-21 (2010); *Grier v. Heidenberg*, 255 Md. App. 506, 516 (2022). "The purpose of requiring parties to await [the entry of a] final judgment before taking an appeal is to avoid 'piecemeal appeals,' which may result in disruption and inefficiency." *Huertas v. Ward*, 248 Md. App. 187, 200 (2020) (citing *Monarch Acad. Baltimore Campus, Inc. v. Baltimore City Bd. of Sch. Comm'rs*, 457 Md. 1, 42-43 (2017)).

"In general, an order is not a final judgment unless it fully adjudicates all claims in the case by and against all parties to the case." *Huertas v. Ward*, 248 Md. App. at 200 (citing Md. Rule 2-602(a)). "An interlocutory order, i.e. any order that is not a final

judgment, ordinarily is not appealable." *Huertas v. Ward*, 248 Md. App. at 200 (citing *Baltimore Home Alliance, LLC v. Geesing*, 218 Md. App. 375, 383 (2014)).

To qualify as a final judgment, an order "must be 'so final as either to determine *and conclude* the rights involved or to deny the appellant the means of further prosecuting or defending his or her rights and interests in the subject matter of the proceeding.'" *Metro Maint. Sys. South, Inc. v. Milburn*, 442 Md. 289, 299 (2015) (quoting *Rohrbeck v. Rohrbeck*, 318 Md. 28, 41 (1989)) (emphasis in original); *accord Monarch Acad. Baltimore Campus, Inc. v. Baltimore City Bd. of Sch. Comm'rs*, 457 Md. at 43; *Huertas v. Ward*, 248 Md. App. at 200-01. "In other words, the order 'must be a complete adjudication of the matter in controversy, except as to collateral matters, meaning that there is nothing more to be done to effectuate the court's disposition.'" *Huertas v. Ward*, 248 Md. App. at 201 (quoting *Metro Maint. Sys. South, Inc. v. Milburn*, 442 Md. at 299). "Such an order has been described as one that has the effect of 'put[ting] the [party] out of court.'" *Metro Maint. Sys. South, Inc. v. Milburn*, 442 Md. at 299 (quoting *McCormick v. St. Francis de Sales Church*, 219 Md. 422, 426-27 (1959)); *accord Huertas v. Ward*, 248 Md. App. at 201.

The order enforcing the settlement agreement is not a final judgment. It does not adjudicate Barker's pending counterclaim. It does not quiet title to the disputed piece of property. It does not really even enforce the settlement agreement itself—it simply finds that the parties have reached an agreement and that the agreement has certain terms. The order does not fully adjudicate all claims in the case by and against all parties to the case, nor does it put the parties out of court. To the contrary, the parties are apparently still in

court, dealing with the consequences of the Nieveses' refusal to sign a document embodying the settlement agreement that the court found that they made.[2]

In civil litigation, there are three principal exceptions to the general rule that a party can appeal only from a final judgment that disposes of all claims against all parties: "appeals from interlocutory orders specifically allowed by statute; immediate appeals permitted under Maryland Rule 2-602(b); and appeals from interlocutory rulings allowed under the collateral order doctrine." *See, e.g.*, *Salvagno v. Frew*, 388 Md. 605, 615 (2005); *accord In re C.E.*, 456 Md. 209, 221 (2017). This case does not fall within any of the exceptions.

CJP section 12-303 permits certain parties to take immediate appeals from a discrete set of interlocutory orders—typically orders that, historically, would have been issued by courts of equity, such as orders granting or denying injunctive relief. Section 12-303 does not authorize an appeal from the order "enforcing" the settlement agreement in this case.

Rule 2-602(b) authorizes a circuit court to direct the entry of a final judgment as to an order that adjudicates one or more, but fewer than all, of the "claims" in the case or an order that adjudicates all of the "claims" against one or more, but fewer than all, of the

[2] The order enforcing the settlement agreement states that the settlement agreement must contain mutual general releases, but it does not require the parties to file stipulations of dismissal. Nonetheless, nothing would prevent Barker from dismissing his counterclaim if the Nieveses signed the settlement agreement and the quitclaim deed. The dismissal of the counterclaim, once approved by the court, would result in a final judgment. *See generally Hiob v. Progressive American Ins. Co.*, 440 Md. 466, 490-91 (2014).

parties. To employ Rule 2-602(b), however, the court must expressly find, in a written order, that there is no just reason to delay the entry of final judgment. The court made no such finding in this case. Nor could the court properly have employed Rule 2-602(b): the order does not dispose of all of the claims against any of the parties. In fact, the order may not even fully dispose of a single "claim," as Maryland appellate courts have interpreted that term. *See, e.g.*, *Medical Mut. Liab. Ins. Soc'y v. B. Dixon Evander & Assocs.*, 331 Md. 301, 310 (1993); *East v. Gilchrist*, 293 Md. 453, 459 (1982).

The collateral order doctrine is a "very narrow exception" to the final judgment rule. *See, e.g.*, *Dawkins v. Baltimore City Police Dep't*, 376 Md. 53, 58 (2003). "To qualify as a collateral order, a ruling must satisfy four criteria: '(1) it must conclusively determine the disputed question; (2) it must resolve an important issue; (3) it must be completely separate from the merits of the action; and (4) it must be effectively unreviewable on appeal from a final judgment.'" *Maryland Bd. of Physicians v. Geier*, 225 Md. App. 114, 131 (2015) (quoting *Addison v. Lochearn Nursing Home, LLC*, 411 Md. 251, 285 (2009)). The collateral order doctrine does not permit an appeal of an order enforcing a settlement agreement, because such an order is effectively reviewable on appeal from a final judgment. *Pattison v. Pattison*, 254 Md. App. 294, 310 (2022).

If the Nieveses refuse to sign the settlement agreement, the quitclaim deed, or both, Barker can move for an order compelling them to comply with their obligations to do so. If the court grants such an order, the Nieveses may appeal under CJP section 12-303(3)(1) because the order would be "in the nature of an injunction." *See, e.g.*, *Maryland State Bd. of Educ. v. Bradford*, 387 Md. 353, 384 (2005). In addition, if the

court grants such an order, but the Nieveses do not comply with it, Barker can move to have them held in constructive civil contempt. *See* Md. Rule 15-206. CJP section 12-304(a) would permit the Nieveses to appeal from an order holding them in contempt.

In sum, this appeal must be dismissed because the circuit court has not entered a final judgment or an appealable interlocutory order.

APPEAL DISMISSED. COSTS TO BE PAID BY APPELLANT.