An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

2021-NCCOA-677

No. COA20-920

Filed 7 December 2021

Union County, No. 17-CVS-3185

TAMMY IRENE NEAL, Plaintiff,

v.

PRESTWICK HOMEOWNERS ASSOCIATION OF UNION COUNTY, INC., Defendant.

Appeal by Plaintiff from an order entered 3 August 2020 by Judge Jeffery K. Carpenter in Union County Superior Court. Heard in the Court of Appeals 21 September 2021.

*Pamela A. Hunter for Plaintiff-Appellant.*

*Cranfill Sumner LLP, by Steven A. Bader, Patrick H. Flanagan, and Virginia M. Wooten (withdrew after filing briefs), for Defendant-Appellee.*

INMAN, Judge.

¶ 1 Plaintiff Tammy Irene Neal ("Plaintiff") appeals from an order dismissing her complaint and dissolving a related *lis pendens*. Because the trial court's order did not dispense with a pending counterclaim for slander of title brought by Defendant Prestwick Homeowners Association of Union County, Inc. ("Defendant"), the record does not otherwise disclose resolution of the counterclaim, and Plaintiff has failed to

meet her burden of establishing the immediate appealability of the trial court's interlocutory order, we dismiss Plaintiff's appeal for want of jurisdiction.

## I. FACTUAL AND PROCEDURAL HISTORY

¶ 2 The record below discloses the following:

¶ 3 Plaintiff owned a home subject to Defendant's rules and regulations. In June 2014, Defendant filed a claim of lien against Plaintiff for unpaid fines, eventually resulting in a foreclosure proceeding. The foreclosure was stayed a few months later after Plaintiff filed for bankruptcy.

¶ 4 Plaintiff's bankruptcy action was dismissed in February 2017. Foreclosure proceedings resumed, and Defendant purchased Plaintiff's home through the foreclosure sale. Plaintiff nonetheless continued to live in the residence, leading Defendant to evict her in December 2017.

¶ 5 Plaintiff filed a complaint in superior court the following month, asserting various claims based on an alleged lack of notice of the foreclosure. She also filed a notice of *lis pendens* encumbering the property pending resolution of her complaint. Defendant filed a combined answer, motion to dismiss, and counterclaims on 9

February 2018. Defendant's counterclaims sought: (1) monetary damages for slander of title; and (2) to quiet title by removal of the *lis pendens*.[1]

¶ 6 Plaintiff filed a motion for summary judgment in July 2020. Following a hearing, the superior court granted Defendant's motion without resolving Plaintiff's motion for summary judgment, with the written order dismissing Plaintiff's complaint and dissolving the *lis pendens*. Plaintiff appeals.

## II. ANALYSIS

¶ 7 Whether an appeal is interlocutory is a "jurisdictional threshold question," and this Court will dismiss an appeal as interlocutory even when—as here—the parties fail to raise the issue. *Pentecostal Pilgrims & Strangers Corp. v. Connor*, 202 N.C. App. 128, 128, 688 S.E.2d 81, 81-82 (2010). Generally, an interlocutory order is subject to immediate appellate review only if the order: (1) is properly certified by the trial court pursuant to Rule 54(b) of the North Carolina Rules of Civil Procedure; or (2) affects a substantial right of the appellant that may be lost absent immediate review. *Jeffreys v. Raleigh Oaks Joint Venture*, 115 N.C. App. 377, 379, 444 S.E.2d 252, 253 (1994). Our precedents are clear that "[u]nder either of these two

[1] In its appellee brief, Defendant acknowledges filing two counterclaims, but then describes them as a single counterclaim to dissolve the *lis pendens*. The record shows the counterclaims were separately pled for different relief, with the slander of title claim specifically seeking monetary damages and the quiet title claim expressly requesting dissolution of the *lis pendens*.

circumstances, *it is the appellant's burden to present appropriate grounds for this Court's acceptance of an interlocutory appeal* and our Court's responsibility to review those grounds." *Id.* (citations omitted) (emphasis added).

¶ 8 Here, the order dismissing Plaintiff's complaint and dissolving the *lis pendens* is interlocutory because it does not resolve Defendant's counterclaim for slander of title and therefore "does not dispose of the case, . . . leav[ing] it for further action by the trial court in order to settle and determine the entire controversy." *Veazey v. Durham*, 231 N.C. 357, 362, 57 S.E.2d 377, 381 (1950); *see also Currin & Currin Constr., Inc. v. Lingerfelt*, 158 N.C. App. 711, 713, 582 S.E.2d 321, 323 (2003) (holding a partial summary judgment order dismissing a plaintiff's complaint was interlocutory because the defendant's counterclaims remained pending before the trial court). Nothing in our review of the record establishes that Defendant's slander of title claim has been settled, dismissed, or otherwise resolved. Thus, we may review the trial court's dismissal order only if Plaintiff has met her burden of showing interlocutory review is proper. *Jeffreys*, 115 N.C. App. at 379, 444 S.E.2d at 253. We hold that she has not.

¶ 9 Plaintiff's brief omits the statement of grounds for appellate review required by Rule 28 of our Rules of Appellate Procedure. N.C. R. App. P. 28(b)(4) (2021). The trial court's order was not certified for immediate appellate review, and Plaintiff has offered no argument asserting the order affected a substantial right. "It is not the

duty of this Court to construct arguments for or find support for appellant's right to appeal from an interlocutory order." *Jeffreys*, 115 N.C. App. at 380, 444 S.E.2d at 254. Because Plaintiff has failed to meet her burden establishing the appealability of the trial court's interlocutory order, we dismiss her appeal for want of jurisdiction.

DISMISSED.

Judges MURPHY and HAMPSON concur.

Report per Rule 30(e).