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IN THE COURT OF APPEALS OF NORTH CAROLINA

2022-NCCOA-601

No. COA22-173

Filed 6 September 2022

Alamance County, No. 18 CVS 2459

GARY W. BLAYLOCK and ALISIA WILSON, Plaintiffs,

v.

KATHY WELLS YORK and MELVIN YORK, Defendants.

Appeal by plaintiff Gary W. Blaylock from order entered 17 June 2021 by Judge Andrew H. Hanford in Alamance County Superior Court. Heard in the Court of Appeals 24 August 2022.

Gary W. Blaylock, pro se.

Holt, Longest, Wall & Moseley, PLLC, by N. Madison Wall, II, for defendants-appellees.

ARROWOOD, Judge.

¶ 1

Gary W. Blaylock (“Mr. Blaylock”) appeals *pro se* from an order denying his motion for relief from a variety of District Court judgments. For the following reasons, we dismiss Mr. Blaylock’s appeal.

I. Background

¶ 2

On 6 July 2016, Kathy Wells York (“Ms. York”) filed a complaint (16 CVD 1232) against Mr. Blaylock and Alisia Wilson (“Ms. Wilson”). Ms. York alleged that in 2012 Mr. Blaylock and Ms. Wilson had entered onto a property located in Graham, North Carolina (the “property”) “without invitation or permission . . . when [Ms. York]’s father was still the fee owner[,]” upon which Mr. Blaylock and Ms. Wilson “remained . . . without [Ms. York]’s permission or authorization, even after [Ms. York] became the fee owner in 2014 and directly ordered them to leave the [p]roperty.” Ms. York also stated that, “in a previous ejectment action (15 CvD 509)[,]” the trial court had found that Mr. Blaylock’s and Ms. Wilson’s “submission of a purported lease” constituted “a forgery and a fraud upon the court.” Ms. York alleged four causes of action: trespass to land, ejectment, waste and trespass to chattels, and preliminary and permanent injunction.

¶ 3

On 5 October 2016, Ms. York filed a motion for summary judgment on the cause of action of ejectment, arguing there was no genuine issue of material fact and that thus she was entitled to judgment as a matter of law. On 15 December 2016, the trial court filed an order on Ms. York’s motion for summary judgment. Therein, the trial court concluded that “no genuine issue of material fact remains, and [Ms. York] is entitled to judgment as a matter of law” as to ejectment. Indeed, the trial court found that Ms. York was the owner of record of the property, that there was “no valid written lease” between the parties, that Mr. Blaylock and Ms. Wilson had been given

proper notice to quit the property on 26 May 2016, and that Mr. Blaylock and Ms. Wilson continued to inhabit the property. Thus, the trial court granted Ms. York’s motion, entitling her to “immediate possession” of the property.

¶ 4 On 19 October 2018, the trial court entered an administrative order dismissing “all pending motions and claims” in 16 CVD 1232, “as neither party nor attorney appeared at [a] Clean-up Calendar, or otherwise advised the Court prior to this Clean-up calendar of a valid reason why such should not be dismissed.” The matter was thusly “administratively closed”

¶ 5 On 21 December 2018, Mr. Blaylock and Ms. Wilson, through counsel, filed a complaint (18 CVS 2459) against Ms. York and Melvin York (“Mr. York”) (collectively, the “Yorks”). The complaint stated that the Yorks had “instituted numerous actions against [Mr. Blaylock and Ms. Wilson] in order to obtain possession of the property, as shown in Alamance County civil files: 14 CvM 2394, 15 CvM 2518, 15 CvD 509, 16 CvD 1232 and 15 CvM 488”; it also stated that Mr. Blaylock and Ms. Wilson were removed from the property on 26 January 2017 while being denied “access for the purpose of retrieving their personal property.” Mr. Blaylock and Ms. Wilson alleged four causes of action: conversion, “negligent and intentional infliction of emotional distress,” “unfair and deceptive trade practices,” and punitive damages.

¶ 6 The Yorks filed a motion for summary judgment with respect to all of the claims against them on 14 February 2020. The trial court filed an order on this

motion on 29 September 2020. The trial court granted the Yorks’ motion for summary judgment with respect to the cause of action against them for negligent and intentional infliction of emotional distress, granted the motion with respect to unfair and deceptive trade practices, granted in part and denied in part the motion with respect to conversion, and granted in part and denied in part the motion with respect to punitive damages.

¶ 7

On 10 March 2021, Mr. Blaylock and Ms. Wilson filed *pro se* a Rule 60(b) motion for relief. Through this motion, Mr. Blaylock and Ms. Wilson “request[ed] relief from four separate District Court judgments[,]” namely:

(1) 15 CVD 509 Order on Plaintiff’s Motion for Relief from Judgment filed October 6, 2015; (2) 16 CVD 1232 Order on Plaintiff’s Motion for Summary Judgment filed December 15, 2016; (3) 16 CVD 1232 Order on Defendants’ Motion for Relief from Judgment filed April 3, 2017; and (4) 16 CVD 1232 Administrative Order filed October 19, 2018.

Mr. Blaylock and Ms. Wilson contended that they were entitled to relief due to “fraud and misrepresentation by the District Court, former attorneys, [and] the opposing party,” and also contended that “the aforementioned District Court judgments [were] void.” Interestingly, although Mr. Blaylock’s and Ms. Wilson’s motion makes no

mention whatsoever of their most recent matter (18 CVS 2459) against the Yorks, the motion was submitted in association with that file number.¹

¶ 8 The trial court filed an order on Mr. Blaylock’s and Ms. Wilson’s motion on 17 June 2021, stating that Mr. Blaylock and Ms. Wilson had “failed to make their motion within one . . . year after the judgments in District Court which are the subject of [their] motion (relating to Rule 60(b)(1), (2), and (3)) and [had] also failed to make their motion within a reasonable time (relating to Rule 60(b)(4), (5), and (6))” [R 31] As a result, the trial court, in its discretion, denied the motion. Mr. Blaylock filed notice of appeal *pro se* on 12 July 2021.

II. Discussion

¶ 9 On appeal, Mr. Blaylock argues that the trial court abused its discretion in denying his Rule 60(b) motion, contending that, “[w]hile Rule 60(b) does have time restraints for the majority of enumerated cases, a void judgement [sic] can be attacked at any time.”

¶ 10 “[A] motion for relief under Rule 60(b) is addressed to the sound discretion of the trial court and appellate review is limited to determining whether the court abused its discretion.” *Jabari v. Jabari*, 2022-NCCOA-379, ¶ 14 (citation and

¹ Specifically, the cover page of Mr. Blaylock’s and Ms. Wilson’s Rule 60(b) motion for relief from judgment reads in the upper right corner: “IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION 18 CVS 2459[.]”

quotation marks omitted). “An abuse of discretion occurs only upon a showing that the judge’s ruling was so arbitrary that it could not have been the result of a reasoned decision.” *Id.* (citation and quotation marks omitted).

¶ 11 “On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for” a specific set of reasons, including fraud or a void judgment. N.C. Gen. Stat. § 1A-1, Rule 60(b) (2021). “The motion shall be made within a reasonable time”; if the motion is made for reason of fraud, the motion must be filed “not more than one year after the judgment, order, or proceeding was entered or taken.” *Id.* Additionally, “[m]otions pursuant to Rule 60(b) may not be used as a substitute for appeal.” *Davis v. Davis*, 360 N.C. 518, 523, 631 S.E.2d 114, 118 (citation and quotation marks omitted).

¶ 12 Here, Mr. Blaylock and Ms. Wilson filed the Rule 60(b) motion on 10 March 2021. The four judgments from which Mr. Blaylock and Ms. Wilson purportedly sought relief were entered, respectively, on 6 October 2015, 15 December 2016, 3 April 2017, and 19 October 2018. Because the motion was filed well over a year from the filing of the most recent of the four judgments at issue, and thus not within a reasonable timeframe, the trial court’s finding that the motion was untimely was not an abuse of discretion.

¶ 13 Furthermore, to the extent that the Rule 60(b) motion could be construed as being associated with Mr. Blaylock’s and Ms. Wilson’s pending matter (18 CVS 2459)

against the Yorks, due to the manner in which the motion was filed, this appeal is interlocutory; following the trial court's granting in part and denying in part of the Yorks' motion for summary judgment, 18 CVS 2459 has yet to be finalized. *See Veazey v. City of Durham*, 231 N.C. 357, 361-62, 57 S.E.2d 377, 381 (1950) (citations omitted). This alone enables this Court to dismiss the appeal. *See id.*

¶ 14 It is apparent from the record that Mr. Blaylock has not only engaged in efforts to achieve new, favorable outcomes, to which he is not entitled, from long-finalized judgments, but he also seeks relief from District Court judgments by petitioning in a different division, that being the Superior Court, in a different case altogether. Assuming *arguendo* this court had the authority to rule on this motion, its orders are interlocutory and the appeal must be dismissed. Accordingly, for the reasons stated above, we dismiss Mr. Blaylock's appeal.

III. Conclusion

¶ 15 For the foregoing reasons, this appeal is dismissed.

DISMISSED.

Judges TYSON and GRIFFIN concur.

Report per Rule 30(e).