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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA 24-28

Filed 3 September 2024

Haywood County, No. 20 CVS 894

DANIEL T. BRYAN, et. al, Plaintiffs,

v.

FIREFLY MOUNTAIN PROPERTIES, LLC. et. al, Defendants.

Appeal by Plaintiffs from order entered 26 May 2023 by Judge Steve Warren in Haywood County Superior Court. Heard in the Court of Appeals 19 August 2024.

Lisa D. Bryan and Daniel T. Bryan, pro se Plaintiffs-Appellants.

Frank G. Queen for Defendants-Appellees.

PER CURIAM.

Plaintiffs appeal from an interlocutory order entered 26 May 2023. After careful consideration of the record considering the applicable law, we conclude that Plaintiffs' appeal has been taken from an unappealable interlocutory order and must, for that reason, be dismissed.

I. Background

On 29 September 2020, Plaintiffs filed suit against Defendants asserting several causes of action arising from a lease agreement the parties entered on 26 October 2018.

Plaintiffs filed a motion for summary judgment. The trial court denied Plaintiffs' motion on 26 May 2023. Plaintiffs timely appealed.

II. Analysis

The issue presented before this Court is whether the trial court erred in denying Plaintiffs' summary judgment motion. A “[d]enial of a summary judgment motion is interlocutory and ordinarily cannot be immediately appealed.” *Craig v. New Hanover Cnty. Bd. Of Educ.*, 363 N.C. 334, 337, 678 S.E.2d 351, 354 (2009).

Generally, only final judgments, not interlocutory orders, may be appealed to the appellate courts. *Steele v. Hauling Co.*, 260 N.C. 486, 491, 133 S.E.2d 197, 201 (1963) (citation omitted). Interlocutory orders are subject to appellate review in two main instances:

[I]f (1) the order is final as to some claims or parties, and the trial court certifies pursuant to [N.C. Gen. Stat.] § 1A-1, Rule 54(b) that there is no just reason to delay the appeal, or (2) the order deprives the appellant of a substantial right that would be lost unless immediately reviewed.

Currin v. Lingerfelt, 158 N.C. App. 711, 713, 582 S.E.2d 321, 323 (2003).

When this Court is presented with an appeal from an interlocutory order, “the burden is on the party seeking review . . . to show how it will affect a substantial right

absent immediate review.” *Whitehurst v. NewBridge Bank*, 237 N.C. App. 92, 95, 764 S.E.2d 487, 489 (2014).

Here, Plaintiffs have failed to articulate in their brief any substantial right which would be lost if we were not to consider the merits of their appeal at this time. They merely state in the “Statement of the Grounds for Appellate Review” section of their appellate brief that the order denying their motion for summary judgment “affects [their] substantial rights and will cause them harm if not corrected,” without any elaboration. They do mention later in their brief that they desire to avoid the expense and delay of the trial. However, we have held that “avoiding the time and expense of trial is not a substantial right justifying immediate appeal.” *Lee v. Baxter*, 147 N.C. App. 517, 520, 556 S.E.2d 36, 38 (2001).

We conclude that Plaintiffs have failed in meeting their burden of showing that the interlocutory order from which they are appealing affects a substantial right which would be lost if not appealed immediately. Accordingly, we dismiss the appeal.

DISMISSED.

Panel consisting of Chief Judge DILLON, Judges GORE and GRIFFIN.

Report per Rule 30(e).