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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-781

Filed 7 May 2025

Alamance County, No. 23 CVS 1177

JAMES CRANDALL, Plaintiff,

v.

MANORFIELD PROPERTY  
OWNERS ASSOCIATION, INC.  
(d/b/a ARBOR CREEK –  
MANORFIELD PROPERTY  
OWNERS ASSOCIATION); and  
THE CITY OF MEBANE, Defendants.

Appeal by Plaintiff from order entered 3 June 2024 by Judge Clayton D. Somers in Alamance County Superior Court. Heard in the Court of Appeals 11 February 2025.

*Randolph M. James, P.C., by Attorneys Randolph M. James and Kyle W. Martin, for the plaintiff-appellant.*

*No brief filed for defendant-appellee Manorfield Property Owners Association, Inc.*

*Davis & Hamrick, LLP, by Attorney Ann C. Rowe, for the defendant-appellee the City of Mebane.*

STADING, Judge.

James Crandall (“Plaintiff”) appeals an order from the trial court that granted the City of Mebane’s (“Defendant Mebane”) motion to dismiss for lack of subject matter jurisdiction under N.C. Gen. Stat. § 1A-1, Rule 12(b)(1) and, alternatively, under Rule 12(b)(6), for failure to state a claim upon which relief can be granted. For the following reasons, we dismiss Plaintiff’s appeal as interlocutory.

### **I. Background**

Plaintiff is the owner and resident of Manorfield subdivision (“Manorfield”) in Mebane, North Carolina. Plaintiff acquired his property in 2017, and at that time, the Defendant Mebane’s Unified Development Ordinance (“UDO”) placed no restrictions on the use of the common parking areas within Manorfield.

In August 2019, the Manorfield Property Owners Association (“Association”) posted signs in the three common parking areas of Manorfield, restricting those areas for visitor use only. This signage effectively barred property owners from using these parking spaces, even though those areas were designated as common spaces meant for the enjoyment of all residents. Plaintiff typically parks his work vehicle in the common areas “given the small lot sizes” in Manorfield. After being informed by the Association that he could not park his employer-owned vehicle in the common parking area, Plaintiff sought to resolve the issue by requesting Defendant Mebane to enforce their UDO. Yet Defendant Mebane’s attorney replied that the city could not challenge the Association’s regulation.

Plaintiff filed suit against Defendant Mebane and the Association on 13 June 2023, seeking a writ of mandamus to enforce the UDO, and permit Manorfield residents to park in the restricted common area. On 11 September 2023, Defendant Mebane moved to dismiss under Rule 12(b)(1) for lack of subject matter jurisdiction and Rule 12(b)(6) for failure to state a claim upon which relief can be granted. The trial court granted Defendant Mebane's motion, dismissing Plaintiff's claims under Rule 12(b)(1) after determining that it lacked subject matter jurisdiction. It also dismissed the claims under Rule 12(b)(6). After the trial court dismissed claims against Defendant Mebane, claims remained outstanding against the Association. Plaintiff entered his notice of appeal.

## **II. Jurisdiction**

Before reviewing the merits, we must examine whether we have jurisdiction over this appeal. An "appeal lies of right directly to the Court of Appeals . . . from any final judgment of a superior court." N.C. Gen. Stat. § 7A-27(b)(1) (2023). "A final judgment is one which disposes of the cause[s] of action] as to all the parties, leaving nothing to be judicially determined between them in the trial court." *Veazey v. City of Durham*, 231 N.C. 357, 361–62, 57 S.E.2d 377, 381 (1950) (citation omitted). "An interlocutory order is one made during the pendency of an action, which does not dispose of the case, but leaves it for further action by the trial court in order to settle and determine the entire controversy." *Id.* at 362, 57 S.E.2d at 381 (citation omitted); *see also Blackwelder v. State Dep't of Hum. Resources*, 60 N.C. App. 331, 333, 299

S.E.2d 777, 779 (1983) (“A ruling is interlocutory in nature if it does not determine the issues but directs some further proceeding preliminary to final decree.”); *see also Hyatt v. Town of Lake Lure*, 191 N.C. App. 386, 389, 663 S.E.2d 320, 322 (2008) (“[T]he order appealed from is interlocutory. The judgment disposes of plaintiff’s claims against the Town, while leaving unresolved her claims against the State of North Carolina.”); *see also Mills Pointe Homeowner’s Ass’n v. Whitmire*, 146 N.C. App. 297, 298, 551 S.E.2d 924, 926 (2001) (“An order granting a motion to dismiss certain claims in an action, leaving other claims to go forward, is an interlocutory order”). “Generally, there is no right of immediate appeal from interlocutory orders and judgments.” *Sharpe v. Worland*, 351 N.C. 159, 161, 522 S.E.2d 577, 578 (1999). This rule is designed “to prevent fragmentary and premature appeals that unnecessarily delay the administration of justice and to ensure that the trial divisions fully and finally dispose of the case before an appeal can be heard.” *Bailey v. Gooding*, 301 N.C. 205, 209, 270 S.E.2d 431, 434 (1980). “There is no more effective way to procrastinate the administration of justice than that of bringing cases to an appellate court piecemeal through the medium of successive appeals from intermediate orders.” *Veazey*, 231 N.C. at 363, 57 S.E.2d at 382.

An interlocutory order is reviewable under certain circumstances. One such circumstance is when a trial court certifies there is “no just reason for delay” under N.C. Gen. Stat. § 1A-1, Rule 54(b) (2023). Also, an interlocutory order may be appealed if it affects a substantial right of the appealing party or effectively

determines the action and prevents a judgment from which an appeal could be taken. *Cunningham v. Brown*, 51 N.C. App. 264, 266, 276 S.E.2d 718, 721 (1981) (citing N.C. Gen. Stat. §§ 1-277 and 7A-27). In either case, the appellant carries the burden to present appropriate grounds for the appellate court to accept an interlocutory appeal. *See Jeffreys v. Raleigh Oaks Joint Venture*, 115 N.C. App. 377, 379, 444 S.E.2d 252, 253 (1994) (“[I]t is the appellant’s burden to present appropriate grounds for this Court’s acceptance of an interlocutory appeal . . .”).

Since the record does not contain a Rule 54(b) certification, it is incumbent upon Plaintiff to demonstrate a substantial right to obtain immediate appellate review. “A right is substantial if it will be lost or irremediably and adversely affected if the trial court’s order is not reviewed before a final judgment.” *Nello L. Teer Co. v. Jones Bros.*, 182 N.C. App. 300, 303, 641 S.E.2d 832, 835 (2007) (citation omitted). “The substantial right test for appealability is more easily stated than applied.” *Bailey*, 301 N.C. at 210, 270 S.E.2d at 434 (citation and internal quotation marks omitted). “We take a restrictive view of the substantial right exception and adopt a case-by-case approach.” *Wells Fargo Bank, Nat’l Ass’n v. Corneal*, 238 N.C. App. 192, 194, 767 S.E.2d 374, 376 (2014) (citation and internal quotation marks omitted). Determining whether a right is substantial must “resolve the question in each case by considering the particular facts of that case and the procedural context in which the order from which appeal is sought was entered.” *Waters v. Qualified Pers., Inc.*, 294 N.C. 200, 208, 240 S.E.2d 338, 343 (1978).

A two-part test is applied to determine whether an appellant would be deprived of a substantial right: “the right itself must be substantial[,] and the deprivation of that substantial right must potentially work injury to plaintiff if not corrected before appeal from final judgment.” *Goldston v. Am. Motors Corp.*, 326 N.C. 723, 726, 392 S.E.2d 735, 736 (1990). Plaintiff maintains that the trial court’s dismissal of his claim impacts his ability to resolve the dispute with Defendant, thereby affecting a substantial right. Unless the issue is resolved now, Plaintiff contends he risks suffering inconsistent decisions by two trials on the same issue of whether the Association can deny him use of the common area parking. *See Corneal*, 238 N.C. App. at 194, 767 S.E.2d at 376 (citation omitted) (“A party has a substantial right to avoid two separate trials of the same issues.”).

Here, the trial court’s ruling dismissed Plaintiff’s claims against Defendant Mebane and does not prevent him from pursuing his claims against the Association. Plaintiff is not without a remedy, and his ability to seek relief on the separate and distinct claims against the Association are not foreclosed. *See Myers v. Barringer*, 101 N.C. App. 168, 173, 398 S.E.2d 615, 619 (1990) (dismissing an interlocutory appeal where “the issues involved . . . against each defendant are severable” and the “remaining causes of action are not ‘matters embraced’” in the dismissed action); *see also Hyatt*, 191 N.C. App. at 389, 663 S.E.2d at 322. Further, “our courts have held that an appeal from an interlocutory order involving access to an easement ordinarily does not implicate a substantial right.” *McColl v. Anderson*, 152 N.C. App. 191, 193,

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567 S.E.2d 203, 205 (2002) (citations omitted). Based on the above, we decline to grant review of Plaintiff's appeal.

**III. Conclusion**

Plaintiff's interlocutory appeal is premature and accordingly dismissed.

DISMISSED.

Judges WOOD and GORE concur.

Report per Rule 30(e).