

Commonwealth Of Kentucky

Court of Appeals

NO. 2004-CA-001586-MR

CRYSTAL SMITH

APPELLANT

v.

APPEAL FROM MENIFEE CIRCUIT COURT
HONORABLE WILLIAM B. MAINS, JUDGE
ACTION NO. 02-CI-90037

WASHINGTON MUTUAL BANK, ITS
SUCCESSORS AND ASSIGNS; AND
OPTION ONE

APPELLEES

OPINION AND ORDER
DISMISSING

** ** *

BEFORE: COMBS, CHIEF JUDGE; JOHNSON AND McANULTY, JUDGES.
COMBS, CHIEF JUDGE: Crystal Smith, *pro se*, appeals from an order of July 9, 2004, of the Meniffee Circuit Court reflecting the terms of a settlement agreement. After reviewing the proceedings, we are compelled to dismiss the appeal, *sua sponte*.

On March 26, 2002, Washington Mutual Bank filed a foreclosure action against Crystal Smith. She answered the complaint and denied that she had defaulted under the terms of

the note and mortgage. After several unsuccessful attempts at negotiation, the parties agreed to a settlement at a status conference conducted by the court on June 10, 2004. The terms of their agreement were reflected in an order entered July 9, 2004.

The court's order indicates that the parties contemplated a dismissal of the pending action in exchange for other mutual agreements between them, which included the bank's consent to contact credit-reporting agencies on Smith's behalf and Smith's payment of \$48,600.00 to the bank "within 90 days from the date Smith's credit report no longer reflects the delinquency and foreclosure action." Order at 1. As these collateral agreements would require some time to complete, the trial court intended to retain jurisdiction in order to implement or to enforce the terms of the agreement by way of subsequent orders.

In order for this Court to acquire jurisdiction, the order from which an appeal is brought to us must be a final one. Jacoby v. Carrollton Federal Savings & Loan Ass'n., 246 S.W.2d 1000 (Ky. 1952). Since the trial court explicitly retained jurisdiction in this matter, no final order adjudicating the claims has been entered. Therefore, this appeal must be dismissed.

IT IS HEREBY ORDERED that this appeal be, and the same
is hereby, dismissed.

ALL CONCUR.

ENTERED: September 2, 2005

/s/ Sara Combs
CHIEF JUDGE, COURT OF APPEALS

BRIEF FOR APPELLANT:

Crystal Smith, *pro se*
Wellington, Kentucky

BRIEF FOR APPELLEE WASHINGTON
MUTUAL BANK:

James D. Keffer
Cincinnati, Ohio