IN THE SUPREME COURT OF THE STATE OF DELAWARE

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| GEORGE DICKERSON and JULIE POWERS, | § | No. 367, 2012 |
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| Plaintiffs Below-Appellants, | § | |
| | § | |
| v. | § | Court Below—Superior Court of the State of Delaware, in and for New Castle County C.A. No. N10C-08-221 |
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| WILLIAM PHILLIPS, RHONDA ABRAHAM, LEAH BETTS and TOWN OF MILTON, DELAWARE, | § | |
| | § | |
| Defendants Below-Appellees. | § | |

Submitted: July 18, 2012
Decided: July 24, 2012

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices.

**O R D E R**

This 24th day of July 2012, upon consideration of the notice to show cause, the appellants' response, and the appellees' reply thereto, it appears to the Court that:

(1) The plaintiffs-appellants, George Dickerson and Julie Powers, filed this appeal from a decision of the Superior Court, dated June 13, 2012, which granted the appellees-defendants' motion for partial judgment on the pleadings. The Superior Court's order had the effect of dismissing the plaintiffs' complaint in C.A. No. N10C-08-221, which was one of three

cases that were consolidated by the Superior Court at the parties' joint request.[1]

(2) On July 3, 2012, the Clerk of this Court issued a notice to the plaintiffs to show cause why the appeal should not be dismissed for the plaintiffs' failure to comply with Supreme Court Rule 42 when appealing an apparent interlocutory order. The plaintiffs filed a response to the rule to show cause contending that the Superior Court's decision is a final, appealable order as to the complaint filed in C.A. N10C-08-221 because all of the claims associated with that case have been resolved.

(3) In their reply, the defendants contend that the plaintiffs' response ignores the Superior Court's consolidation of the three complaints. According to the defendants, C.A. No. N10C-08-211 remains an open and active case in the Superior Court, notwithstanding the Superior Court's decision granting partial judgment on the pleadings. The defendants assert that this appeal is interlocutory because the Superior Court's June 13, 2012 order did not resolve all of the issues pending before it.

[1] The other two complaints were filed in C.A. No. N11C-04-146 and C.A. No. N11C-08-234 and were consolidated into the earlier filed action, C.A. No. N10C-08-221, which is the subject of this appeal. Although the complaint in C.A. No. N10C-08-221 was dismissed, the civil action number remains open because the claims contained in the other two complaints have not been resolved.

(4) We agree with that position. An order is deemed final and appealable if the trial court has declared its intention that the order be the court's "final act" in disposing of all justiciable matters within its jurisdiction.[2] Having consolidated these three cases at the parties' request, the Superior Court's June 13, 2012 order clearly did not dispose of all of the issues pending before it. The ruling from which the appeal is taken is interlocutory in nature because it did not finally determine and terminate the cause below.[3] Furthermore, the plaintiffs failed to comply with the requirements of Rule 42 in seeking to appeal from an interlocutory order.[4]

NOW, THEREFORE, IT IS ORDERED that this appeal is hereby DISMISSED. Any docketing fee paid to this Court by the plaintiffs in conjunction with this appeal shall be applied to any future appeal from a final order entered in the case.

BY THE COURT:

/s/ Randy J. Holland
Justice

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[2] *J.I. Kislak Mortgage Corp. v. William Matthews, Builder, Inc.*, 303 A.2d 648, 650 (Del. 1973).
[3] *See Julian v. State*, 440 A.2d 990 (Del. 1982).
[4] The plaintiffs also failed to seek the entry of a final judgment pursuant to Superior Court Civil Rule 54(b).