

IN THE COURT OF APPEALS OF TENNESSEE  
AT NASHVILLE  
Assigned October 28, 2014

**BRENTWOOD CHASE COMMUNITY ASSOCIATION  
v. TRIET TRUONG ET AL.**

**Appeal from the Chancery Court for Davidson County  
No. 13-1518-III Ellen H. Lyle, Chancellor**

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**No. M2014-01294-COA-R3-CV - Filed October 30, 2014**

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This appeal involves an action by a homeowners association to enjoin alleged violations of the association's declarations. The trial court adjudicated a portion of the alleged violations and directed the entry of a final judgment pursuant to Tenn. R. Civ. P. 54.02. We have determined that the trial court has not disposed of "one or more claims" within the meaning of Tenn. R. Civ. P. 54.02, meaning all claims by or against that party, *see Bayberry Associates v. Jones*, 783 S.W.2d 553, 557 (Tenn 1990); therefore, we reverse the portion of the order directing the entry of a final judgment, dismiss this appeal without prejudice to any party subsequently pursuing an appeal as of right pursuant to Tenn. R. App. P. 3, and remand for further proceedings.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court  
Reversed and Remanded**

FRANK G. CLEMENT, JR., P.J., M.S., delivered the opinion of the Court, in which ANDY D. BENNETT and RICHARD H. DINKINS, JJ., joined.

Andrew Harrison Maloney, Nashville, Tennessee, for the appellant, Tiffany Curtiss.

Alvin Louis Harris, Nashville, Tennessee, for the appellee, Brentwood Chase Community Association.

**OPINION**

The appellant, Tiffany Curtiss, is the occupant of a home in the Brentwood Chase Community. The Brentwood Chase Community Association filed this lawsuit against Ms. Curtiss asserting she violated sections 14.02(e), (h) and (m) of the Declaration of Brentwood Chase Community by conducting commercial activity at the home and parking a commercial

trailer on the property.<sup>1</sup> On June 6, 2014, the trial court entered a partial summary judgment holding that Ms. Curtiss had violated section 14.02(h) of the declaration but had not violated section 14.02(m). The trial court did not rule on the association's claim regarding violation of section 14.02(e). On June 20, 2014, the association filed a motion for entry of an injunction and for attorney's fees and expenses. Ms. Curtiss filed her notice of appeal on July 3, 2014. On August 25, 2014, the trial court entered a permanent injunction and awarded the association attorney's fees in the amount of \$12,271.51. The order also provided:

[P]ursuant to Tennessee Rule of Civil Procedure 54.02, this is a final order on the plaintiff's claims for relief pursuant to sections 14.02(h) and (m) of the Declaration. By making this portion of the case final, Defendant now has a final order from which to take an appeal. . .

Lastly, for clarification, Plaintiff's claims for redress of Defendant Curtiss's violation of section 14.02(e) remain pending, and it is ordered that to avoid dismissal of that claim for failure to prosecute Plaintiff must dispose of the claim by entry of a ruling on a dispositive motion, or completion of a bench trial on or before February 11, 2015.

A party is entitled to an appeal as of right only after the trial court has entered a final judgment. Tenn. R. App. P. 3(a); *King v. Spain*, No. M2006-02178-COA-R3-CV, 2007 WL 3202757, at \*8 (Tenn. Ct. App. Oct. 31, 2007). A final judgment is a judgment that resolves all the claims between all the parties, "leaving nothing else for the trial court to do." *State ex rel. McAllister v. Goode*, 968 S.W.2d 834, 840 (Tenn. Ct. App. 1997). The trial court may also direct the entry of a final order "as to one or more but fewer than all of the claims or parties" pursuant to Tenn. R. Civ. P. 54.02. Tenn. R. Civ. P. 54.02 provides:

When more than one claim for relief is present in an action, whether as a claim, counterclaim, cross-claim, or third party claim, or when multiple parties are involved, the Court, whether at law or in equity, may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment.

The foregoing notwithstanding, the trial court's authority to direct the entry of a final judgment is not absolute. *Crane v. Sullivan*, No. 01-A-01-9207-CH-00287, 1993 WL 15154, at \*1-2 (Tenn. Ct. App. Jan. 27, 1993). First, Tenn. R. Civ. P. 54.02 requires that the order

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<sup>1</sup>The complaint also named the owner of the home. The trial court granted the association a default judgment against the homeowner on May 20, 2014.

certified as final actually adjudicate one or more of the parties' claims, meaning all claims by or against that party. *Bayberry Associates v. Jones*, 783 S.W.2d 553, 557 (Tenn 1990). Second, the trial court must determine that there is "no just reason for delay." "Under this dual standard, '[t]he determination that a particular order ultimately disposes of a separable claim is a question of law reviewed de novo, while the finding of no just reason for delay is only reviewed for an abuse of discretion.'" *Brown v. John Roebuck & Associates, Inc.*, No. M2008-02619-COA-R3-CV, 2009 WL 4878621 (Tenn. Ct. App. Dec. 16, 2009) (quoting *Gen. Acquisition, Inc. v. GenCorp., Inc.*, 23 F.3d 1022, 1027 (6th Cir.1994)).

"A 'claim' for the purposes of Rule 54.02 is defined as the "aggregate of operative facts which give rise to a right enforceable in the courts." *Carr v. Valinezhad*, App. No. M2009-00634-COA-R3-CV, 2010 WL 1633467, at \*2 (Tenn. Ct. App. Apr. 22, 2010) (citations omitted). The alleged violations of sections 14.02(e), (h) and (m) all involve the same parties and arise out of the same operative facts. They do not constitute separate claims for the purposes of Tenn. R. Civ. P. 54.02, and the trial court's order is thus not "dispositive of an entire claim or party." *Bayberry Associates v. Jones*, 783 S.W.2d at 558. Moreover, to the extent the trial court determined that "there is no just reason for delay," we find no just reason why an appeal should not await the resolution of all remaining issues, especially when the trial court has determined that the remaining issues must be decided by February 11, 2015.

#### IN CONCLUSION

It is, therefore, ordered that the portion of the trial court's order directing the entry of a final judgment pursuant to Tenn. R. Civ. P. 54.02 is reversed, and this appeal is dismissed without prejudice to any party subsequently pursuing an appeal as of right pursuant to Tenn. R. App. P. 3. Further, this matter is remanded to the trial court for further proceedings. The appellant and her surety are taxed with the costs of this appeal for which execution may issue.

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FRANK G. CLEMENT, JR., JUDGE