

an order of a default judgment. On June 18, 2009, the circuit court entered a judgment of foreclosure that granted both the motion for summary judgment and the motion for default judgment. On February 4, 2010, the property in question was set for sale at an auction.

¶ 6 On February 10, 2010, defendant filed a motion to vacate the circuit court's judgment. In the motion, he argued that he was unaware of the hearings on the matter and that he had been in forbearance with the bank and making payments during that time. On February 12, 2010, plaintiff filed a motion for an order approving the report of sale and distribution.

¶ 7 Defendant's motion was continued twice. The record does not contain any transcripts of the hearings. On February 18, 2010, the circuit court entered an order approving the report of sale and distribution and confirming the sale and order of possession. On July 29, 2010, the court denied defendant's motion to vacate the judgment of foreclosure. Defendant filed this timely appeal.

¶ 8 ANALYSIS

¶ 9 On appeal, defendant argues that the circuit court erred in denying his motion to vacate the foreclosure judgment. He further argues that he was making payments and had proof of those payments that the circuit court would not consider. In response, plaintiff argues that this court lacks jurisdiction to consider the claim, and in the alternative, plaintiff argues that defendant is not entitled to relief under section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401 (West 2010)).

¶ 10 The Illinois Supreme Court has held that a foreclosure judgment of a mortgage is not final and appealable until the circuit court enters an order approving the sale and directing the distribution. *In re Marriage of Verdung*, 126 Ill. 2d 542, 555 (1989). "A judgment of foreclosure is not final and appealable because it does not dispose of all the issues between the parties and it does not terminate the litigation." *JP Morgan Chase Bank v. Fankhauser*, 383 Ill. App. 3d 254, 260 (2008). "Unless the court makes a finding pursuant to Supreme

Court Rule 304(a) [(eff. Jan. 1, 2006)], that there is no just reason for delaying enforcement or appeal, the judgment of foreclosure is not appealable." *In re Marriage of Verdung*, 126 Ill. 2d at 555.

¶ 11 Here, defendant is appealing the circuit court's denial of his motion to vacate the judgment of foreclosure. This motion was filed on February 10, 2010, which was eight days prior to the court's order approving the sale and distribution. Defendant's motion was not amended to include the vacatur of the orders that occurred after the filing of the motion. Therefore, since the motion to vacate only included the judgment of foreclosure, then appeal of the denial of such motion would be limited to the same judgment.

¶ 12 However, as held by our supreme court, without a special finding under Rule 304(a), a judgment of foreclosure is not final and appealable. Here, the circuit court's order denying the motion does not contain a special finding under Rule 304(a) stating that there is no just reason for delaying appeal. Moreover, defendant limited his notice of appeal to the circuit court's order of July 29, 2010, and does not mention anything about the other judgments of sale or distribution.

¶ 13 Therefore, we find that defendant's appeal was limited to the denial of his motion to vacate the foreclosure judgment. Defendant's appeal is dismissed pursuant to Rule 304(a), and we cannot consider the merits of the appeal.

¶ 14 **CONCLUSION**

¶ 15 For the foregoing reasons, defendant's appeal is dismissed pursuant to Supreme Court Rule 304(a).

¶ 16 Appeal dismissed.