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2018 IL App (3d) 170211-U

Order filed May 7, 2018

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2018

U.S. BANK NATIONAL ASSOCIATION,)	Appeal from the Circuit Court
As Trustee for CITIGROUP MORTGAGE)	of the 12th Judicial Circuit,
LOAN TRUST, INC., MORTGAGE PASS-)	Will County, Illinois
THROUGH CERTIFICATES, SERIES)	
2006-WF2,)	
)	
Plaintiff-Appellee,)	Appeal No. 3-17-0211
)	Circuit No. 16-LM-2640
v.)	
)	
CHRISTOPHER BARRY FLEMING,)	Honorable
)	Theodore J. Jarz
Defendant-Appellant.)	Judge, Presiding

JUSTICE O'BRIEN delivered the judgment of the court.
Justices Lytton and Wright concurred in the judgment.

ORDER

¶ 1 *Held:* Defendant's appeal dismissed for lack of jurisdiction where notice of appeal was filed 31 days after denial of motion of vacate judgment against defendant.

¶ 2 Plaintiff U.S. Bank National Association filed a forcible entry and detainer action against defendant Christopher Fleming. The trial court granted judgment in favor of U.S. Bank and entered an order of possession on January 24, 2017. Fleming filed a motion to vacate, which the

trial court denied on February 21, 2017. He filed a notice of appeal on March 24, 2017. We dismiss his appeal for lack of jurisdiction.

¶ 3

FACTS

¶ 4

Plaintiff U.S. Bank, N.A., as Trustee for Citigroup Mortgage Loan Trust, Inc., Mortgage Pass-Through Certificates, Series 2006-WF2, brought a forcible entry and detainer action against defendant Christopher Fleming seeking possession of a residence for which U.S. Bank had obtained an order approving a judicial sale against the former owner of the property. Fleming was served with notice of U.S. Bank's intent to file the forcible entry and detainer. U.S. filed the forcible entry and detainer and summons was served on Fleming's adult daughter at the subject property. Fleming failed to show up at the hearing and a judgment of default was entered. He later moved to vacate, which the trial court granted despite Fleming's failure to appear at the hearing. Fleming also failed to appear at the next hearing and the trial court entered another default judgment and an order of possession. Fleming again moved to vacate, arguing he was not provided notice of the hearing. He failed to appear at the hearing on his motion to vacate and the trial court denied his motion on February 21, 2017. Fleming filed a notice of appeal on March 24, 2017.

¶ 5

ANALYSIS

¶ 6

On appeal, Fleming argues that the trial court erred in entering an order of forcible entry and detainer where he was not served with notice of U.S. Bank's intent to file the action.

¶ 7

We must first consider our jurisdiction to determine this appeal. U.S. Bank filed a motion to dismiss for want of jurisdiction with this court, which we denied, directing the parties to include jurisdictional arguments in their briefs. U.S. Bank followed this directive, arguing this

court lacks jurisdiction because Fleming's notice of appeal was untimely. Fleming did not present any argument regarding jurisdiction.

¶ 8 Filing a notice of appeal initiates the appeal process and is the only jurisdictional step in the appeal process. Ill. S. Ct. R. 301 (eff. Feb. 1, 1994). The notice of appeal must be filed with the circuit court clerk within 30 days after final judgment or an order disposing of a timely filed postjudgment motion. Ill. S. Ct. R. 303(a)(1) (eff. July 1, 2017). Strict compliance with the 30-day filing deadline is required. *Won v. Grant Park 2, L.L.C.*, 2013 IL App (1st) 122523, ¶ 20. The appellate court is conferred with jurisdiction only through timely filing of the notice of appeal. *Secura Insurance Co. v. Illinois Farmers Insurance Co.*, 232 Ill. 2d 209, 213 (2009). Where the notice of appeal is not timely filed, the appellate court lacks jurisdiction. *Vines v. Village of Flossmoor*, 2017 IL App (1st) 163339, ¶ 8. A notice of appeal filed even one day late deprives the appellate court of jurisdiction. *In re C.J.*, 325 Ill. App. 3d 502, 505 (2001). Whether jurisdiction exists is a question of law this court reviews *de novo*. *Vines*, 2017 IL App (1st) 163339, ¶ 8.

¶ 9 The trial court denied Fleming's motion to vacate on February 21, 2017. He filed his notice of appeal on March 24, 2017. The filing occurred 31 days after the trial court's final order and was untimely. Fleming did not present any evidence that would allow us to relax the timeliness requirement, such as the mailbox rule or a motion to extend the deadline. See Ill. S. Ct. R. 373 (eff. July 1, 2017) (providing that time of filing for notice of appeal received after due date to be date notice mailed); Ill. S. Ct. R. 303(d) (eff. July 1, 2017) (allowing extension of time to file notice of appeal in certain circumstances). Without a timely filed notice of appeal, this court lacks jurisdiction to hear the appeal. Accordingly, we dismiss the appeal for lack of jurisdiction.

¶ 10

CONCLUSION

¶ 11

For the foregoing reasons, the appeal is dismissed for lack of jurisdiction.

¶ 12

Appeal dismissed.