

Court of Appeals, State of Michigan

ORDER

US Bank National Association v Jeffrey Klemm

Docket No. 329675

LC No. 12-049873-CH

Joel P. Hoekstra
Presiding Judge

David H. Sawyer

Douglas B. Shapiro
Judges

The Court orders that the motion to dismiss this appeal is GRANTED because this Court does not have jurisdiction over this appeal as of right. MCR 7.211(C)(2)(a). The October 5, 2015 order appealed from is not a final order appealable of right. MCR 7.202(6)(a); MCR 7.203(A). It is evident that the final order under MCR 7.202(6)(a)(i) in this case is the June 24, 2013 judgment of foreclosure which disposed of the claims in appellee's complaint, which were the only claims in this case within the meaning of MCR 7.202(6)(a)(i). It follows that the October 5, 2015 postjudgment order is not a final order under MCR 7.202(6)(a)(i). In this regard, that order did not resolve a claim within the meaning of MCR 7.202(6)(a)(i) with respect to its rejection of appellants' position as to the postjudgment matter of whether appellee properly complied with statutory requirements as to the sheriff's sale provided for by the June 24, 2013 final judgment. We also reject appellants' argument that appellee should be estopped from raising the present jurisdictional issue. First, a trial court's certification of an order is not controlling. *Faircloth v Family Independence Agency*, 232 Mich App 391, 400-401; 591 NW2d 314 (1998). Also, it is a well-established principle that a court is obligated to question sua sponte its own jurisdiction. See, e.g., *Yoost v Caspari*, 295 Mich App 209, 220-221; 813 NW2d 783 (2012). It is inherent in that principle that we should not disregard the limits of this Court's jurisdiction as to an appeal of right merely because an appellee may have participated in erroneously designating the order appealed from as a final order. We note that appellants may seek to appeal the October 5, 2015 order by filing a delayed application for leave to appeal within 21 days after the date of this order. MCR 7.205(G)(5).



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

JUN 24 2016

Date


Chief Clerk