

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D17-4150

COLUMBIA BANK,

Appellant,

v.

BARRY D. JOYE; LURONDA S.
JOYE; GREATER SOUTHEASTERN
LAND DEVELOPMENT, LLC;
BRUCE NAYLOR; GARY
SORENSEN; SOUTHEASTERN
PAVING & CONSTRUCTION, LLC;
TONY D. RICHARDS; and DONALD
K. JOYE,

Appellees.

On appeal from the Circuit Court for Columbia County.
E. Bailey Browning, III, Judge.

April 30, 2018

PER CURIAM.

Upon consideration of Appellant's response to the Court's order of October 20, 2017, the Court has determined that the order on appeal is not a final order or appealable non-final order. We, therefore, dismiss the appeal.

Appellant seeks review of an order granting a motion to dismiss its amended counterclaim. We dismiss the appeal for two

reasons. First, the order grants a motion to dismiss without actually dismissing. An order that merely grants a motion to dismiss or a motion for summary judgment, but that does not enter judgment on the motion, or otherwise qualify as a judgment, is not a final appealable order. *See Dedge v. Crosby*, 914 So. 2d 1055 (Fla. 1st DCA 2005).

Second, the order is not presently appealable because counterclaims and cross-claims, related to the claims addressed in the order on appeal, remain pending. *Jensen v. Whetstine*, 985 So. 2d 1218, 1220-1221 (Fla. 1st DCA 2008) (dismissing appeal from order that did not dispose of remaining claims involving related facts); *Northcutt v. Pathway Fin.*, 555 So. 2d 368 (Fla. 3d DCA 1989) (holding interrelatedness depends on “whether there is a factual and legal overlap between the claims”).

The dismissal is without prejudice to seeking review upon rendition of a final order that disposes of all claims, including the pending, related counterclaims and cross-claims.

ROBERTS, KELSEY, and M.K. THOMAS, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Nicholas V. Pulignano, Jr. and Meagan L. Logan, of Marks Gray, P.A., Jacksonville, for Appellant.

Adam L. Morrison of Sellers, Taylor & Morrison, P.A., Live Oak, for Appellee Gary Sorensen.

No appearances for Appellees Barry D. Joye, Donald K. Joye, Luronda S. Joye, Greater Southeastern Land Development, LLC, Bruce Naylor, Southeastern Paving & Construction, LLC, or Tony D. Richards.