

[Cite as *Parker v. ABN Amro Mtge. Group*, 2009-Ohio-4756.]

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

DEBORAH PARKER	:	JUDGES:
	:	William B. Hoffman, P.J.
Plaintiff-Appellant	:	Julie A. Edwards, J.
	:	Patricia A. Delaney, J.
-vs-	:	
	:	Case No. 2008 CA 0093
ABN AMRO MORTGAGE GROUP, et al.,	:	
	:	
Defendant-Appellee	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Civil Appeal From Stark County Court Of
Common Pleas Case No. 2007 CV 03852

JUDGMENT: Dismissed

DATE OF JUDGMENT ENTRY: August 31, 2009

APPEARANCES:

For Plaintiff-Appellant

For Defendant-Appellee

DEBORAH PARKER
2610 Market Ave.
Canton, Ohio 44714

ABN AMRO MORTGAGE GROUP
7159 Corklan Drive
Jacksonville, FL 32258

Edwards, J.

{¶1} Appellant, Deborah Parker, appeals a judgment of the Stark County Common Pleas Court dismissing her complaint for breach of contract against ABN Amro Mortgage Group, Inc. (hereinafter “ABN Amro”), Timothy Cugini, Lisa Cugini, The Huntington National Bank and the Stark County Treasurer for want of prosecution. None of the appellees have filed a brief or appeared in the instant appeal.

{¶2} Appellant filed the instant action on September 20, 2007. The complaint alleged that appellees Timothy and Lisa Cugini breached a land contract that appellant had entered into with them on April 17, 2006. Her complaint sought damages in the amount of \$26, 847.68.

{¶3} All parties filed an answer to the complaint except for ABN Amro. On December 18, 2007, the court ordered appellant to complete any service of process and/or file an appropriate motion for default judgment or summary judgment, or otherwise proceed with the prosecution of the case on or before December 31, 2007, or the court would dismiss the case for want of prosecution. On December 20, 2007, appellant filed a motion for default judgment against ABN Amro.

{¶4} The court overruled appellant’s motion on January 25, 2008. The court found that upon review of the complaint, appellant had alleged no claims against ABN Amro, and the motion for default judgment was therefore not well-taken.

{¶5} On March 10, 2008, the court again ordered appellant to complete any service of process and/or file an appropriate motion for default judgment or summary judgment, or otherwise proceed with the prosecution of the case on or before March 21, 2008, or the court would dismiss the case for want of prosecution. Appellant failed to do

so, and the court dismissed the case for want of prosecution and otherwise than on the merits on March 28, 2008. Appellant filed a notice of appeal from this judgment.

{¶16} Appellant's brief in this matter is not in compliance with the Appellate Rules. Appellate Rule 16(A) sets forth the requirements for a brief filed with this Court:

{¶17} "The appellant shall include in its brief, under the headings and in the order indicated, all of the following:

{¶18} "(1) A table of contents, with page references.

{¶19} "(2) A table of cases alphabetically arranged, statutes, and other authorities cited, with references to the pages of the brief where cited.

{¶10} "(3) A statement of the assignments of error presented for review, with reference to the place in the record where each error is reflected.

{¶11} "(4) A statement of the issues presented for review, with references to the assignments of error to which each issue relates.

{¶12} "(5) A statement of the case briefly describing the nature of the case, the course of proceedings, and the disposition in the court below.

{¶13} "(6) A statement of facts relevant to the assignments of error presented for review, with appropriate references to the record in accordance with division (D) of this rule.

{¶14} "(7) An argument containing the contentions of the appellant with respect to each assignment of error presented for review and the reasons in support of the contentions, with citations to the authorities, statutes, and parts of the record on which appellant relies. The argument may be preceded by a summary.

{¶15} "(8) A conclusion briefly stating the precise relief sought."

{¶16} Pursuant to App. R. 12(A)(2), we may disregard an assignment of error presented for review if the party raising it fails to argue the assignment of error separately by brief, as required by App. R. 16(A). *Corbin v. Dailey*, Franklin App. No. 08-AP-802, 2009-Ohio-881, ¶7. An appellant's failure to follow the dictates of App. R. 16(A) is equivalent to not filing a brief at all and is in and of itself grounds for dismissing the appeal. *Id.*, citing App. R. 18(C).

{¶17} In the instant case, appellant sets forth no assignments of error in her brief as required by App. R. 16(A)(3). Appellant's brief does not set forth any specific legal arguments as to why the trial court erred in dismissing the case for want of prosecution. Appellant reiterates the issues raised in her complaint against the Cuginis, including numerous references to a separate case filed in the Canton Municipal Court which is not before this Court on appeal of the Common Pleas Court judgment. Appellant asks this Court to award damages in the amount of \$29,456.68 for the original breach of contract claim and also for additional claims not included in her complaint and not a part of the record before this Court.

{¶18} As appellant's brief is not in compliance with App. R. 16(A) and we have no assignments of error before this Court for review, we find that appellant's brief is tantamount to filing no brief at all and the appeal should be dismissed. See *Henry v. Gastaldo*, Tuscarawas App. No. 2005AP030022, 2005-Ohio-4109, ¶18, 20 (appeal dismissed where appellant wholly failed to set forth any assignment of error nor cited any specific place in the trial court's record where error allegedly occurred).

{¶19} In addition, appellant did not attach proof of service to her brief as required by App. R. 13(D), and the appeal is therefore subject to dismissal pursuant to App. R.

18(C) for want of prosecution on that basis. *Education Resources Inst. v. Grover*, Stark App. No. 2003CA00379, 2004-Ohio-3057, ¶8.

{¶20} This Court is cognizant of the fact that appellant is proceeding pro se; however, “[w]hile insuring that pro se appellants . . . are afforded the same protections and rights prescribed in the appellate rules, we likewise hold them to the obligations contained therein.” *Reed v. Reed*, Stark App. No. 2007CA00321, 2008-Ohio-4349, ¶17, citing *State v. Wayt* (March 20, 1991), Tuscarawas App. No. 90AP070045, 1991 WL 43005.

{¶21} Because appellant has failed to file a Brief setting forth an assignment of error for review pursuant to App. R. 16(A)(3) and failed to attach proof of service to her brief as required by App. R. 13(D), the appeal is dismissed for want of prosecution.

By: Edwards, J.
Hoffman, P.J. and
Delaney, J. concur

JUDGES

JAE/r0428

