Court of Appeals, State of Michigan

ORDER

HP FORECLOSURE SOLUTION LLC V DOROTHY ZALEWSKI

Docket No. 378953

LC No. 2025-216687-AV

Brock A. Swartzle
Presiding Judge

Michael J. Kelly

Mariam S. Bazzi
Judges

Plaintiff's motion for immediate consideration is GRANTED.

Pursuant to MCR 7.205(E)(2), in lieu of granting the application for leave to appeal, the Court VACATES the November 24, 2025 circuit court order dismissing defendant's appeal, VACATES the July 24, 2025 judgment of possession entered by the district court, and REMANDS to the district court for further proceedings not inconsistent with this order. The district court erred by applying res judicata to conclude that no triable issues remained, and the circuit court erred by dismissing defendant's appeal rather than correcting this clear error. Finality is an indispensable requirement of res judicata, *Kosiel v Arrow Liquors Corp*, 446 Mich 374, 379-380; 521 NW2d 531 (1994), and a decision does not become final until "all appeals have been exhausted or when the time available for an appeal has passed," *Bryan v JPMorgan Chase Bank*, 304 Mich App 708, 716; 848 NW2d 482 (2014) (quotation marks and citation omitted). As applied in this case, the district court erred by giving preclusive effect to a non-final order entered in Oakland Circuit Court Case No. 2024-210718-CH, and the district court erred by concluding that plaintiff was entitled to a judgment of possession on the basis of res judicata. We note that, on appeal, defendant argues that the summary proceedings should be dismissed pending finality in LC No. 2024-210718-CH. We leave it to the district court to address this argument in the first instance on remand.

This order is to have immediate effect. MCR 7.215(F)(2).

We do not retain jurisdiction.

Presiding Judge

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

February 17, 2026
Date

Chief Clerk