

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

---

IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

---

SUNTRUST MORTGAGE, INC.,	)	Appeal from the Circuit Court
	)	of Du Page County.
Plaintiff-Appellee,	)	
	)	
v.	)	No. 11-CH-3622
	)	
FREDERICK JACOBS, <i>et al.</i> ,	)	Honorable
	)	Robert G. Gibson,
Defendant-Appellant.	)	Judge, Presiding.

---

JUSTICE HUDSON delivered the judgment of the court.  
Presiding Justice Burke and Justice Spence concurred in the judgment.

**ORDER**

¶ 1 *Held:* Appellate court lacked jurisdiction over the majority of this appeal, and defendant forfeited the rest of the appeal by not briefing issue over which court had jurisdiction.

¶ 2 Defendant, Frederick Jacobs, seeks to appeal several orders of the circuit court of Du Page County entered during the course of a foreclosure action initiated by plaintiff, Suntrust Mortgage, Inc. As we conclude we lack jurisdiction over the majority of the issues defendant attempts to raise, we are compelled to dismiss a large part of this appeal. Defendant also asserts certain orders of the trial court are void, and we will address these contentions below. In light of what follows, we dismiss in part and affirm in part.

¶ 3 Defendant identifies the following orders in his notice of appeal: a denial of a motion to vacate (entered on April 2, 2013) of a summary judgment order entered in plaintiff's favor on October 10, 2013, and all orders in the 'procedural progression thereto [*sic*], including, but not limited to, review of the Circuit Court's [August 1, 2014], refusal to order a stay of the Sheriff's Sale [*sic*] set for August 5, 2014." We presume "thereto" is a typographical error, as the subsequent order denying the stay could not have led to the earlier orders and that plaintiff is arguing that the earlier orders were part of the procedural progression to the latter one.

¶ 4 Defendant asserts that jurisdiction is proper in accordance with Illinois Supreme Court Rule 307 (eff. February 26, 2010). The jurisdiction conferred upon this court by that rule is narrow, and our "scope of review in an interlocutory appeal from an order granting a motion to stay proceedings is limited to a determination as to whether the trial court abused its discretion in granting [or denying] the stay." *Goodwin v. McHenry County Sheriff's Office Merit Comm'n*, 306 Ill. App. 3d 251, 257 (2007). In this case, the trial court denied defendant's request for a stay of the sheriff's sale on August 1, 2014. It is true that such an order is injunctive in nature and may be appealed as of right under Rule 307(a)(1). *People v. Kerr-McGee Chemical Corp.*, 142 Ill. App. 3d 1104, 1106 (1986). As defendant filed his notice of appeal within 30 days of that order, we have jurisdiction to review it.

¶ 5 However, defendant seeks to use review of that order as a vehicle to secure our review of the earlier summary judgment order and defendant's motion to vacate that judgment. This is improper. The summary judgment order was an order for foreclosure and sale. This is a final order. *EMC Mortgage Corp. v. Kemp*, 2012 IL 113419, ¶ 11. A final order is not appealable under Rule 307; by its own terms, the rule applies to "interlocutory order[s]." Indeed, defendant initially chose the proper course when it sought review of the summary judgment by seeking rule

304(a) findings.<sup>1</sup> Defendant cannot now evade the trial court's refusal to make such a finding by bringing his appeal under Rule 307. The same logic applies to the trial court's ruling on defendant's motion to vacate the summary judgment.

¶ 6 We note that a number of defendant's arguments implicate principles of voidness. It is true that a void order may be attacked in any court at any time. *Village of Vernon Hills v. Heelan*, 2014 IL App (2d) 130823, ¶ 30 n.3. However, it remains the case that the jurisdiction of this court must be properly established. *EMC Mortgage Corp.*, 2012 IL 113419, ¶ 15. That an order is void does not serve to confer jurisdiction upon this court. In other words, though a void order may be attacked *in any court at any time*, absent jurisdiction, the order cannot said to be *in any court*. See *Id.*

¶ 7 Accordingly, we lack jurisdiction over much of this appeal (with the one exception discussed below). Absent jurisdiction, we lack the authority to do anything other than to

---

<sup>1</sup> We note some confusion about the role of Supreme Court Rule 304(a) (eff, February 26, 2010) in matters such as this. To invoke the jurisdiction of this court, an order must be both final *and* appealable. A judgment of foreclosure may not typically be appealed because, though a final judgment, other matters remain pending. See *EMC Mortgage Corp.*, 2012 IL 113419, ¶ 11. Absent a Rule 304(a), it is final but not appealable. *Id.* ¶ 11. A rule 304(a) finding does not convert a nonfinal order into a final order; rather, it makes appealable a nonappealable final order. See *Id.* ¶ 12. For Rule 304(a) to apply, the order sought to be appealed must be final in the first instance. *In re Estate of French*, 166 Ill. 2d 95, 101 (1995). Here, Rule 304(a) would apply to the summary judgment order; however, the trial court declined defendant's request for a Rule 304(a) finding.

announce the fact and dismiss the appeal (or the relevant portion thereof). *River Park, Inc. v. City of Highland Park*, 184 Ill. 2d 290, 306 (1998).

¶ 8 Thus, the only order properly before us is the trial court's denial of defendant's request to stay the sheriff's sale. Nowhere in his opening brief does defendant address this order. As such, any objection to it is forfeited. *Parkway Bank & Trust Co. v. Korzen*, 2013 IL App (1st) 130380, ¶ 56 n.6.

¶ 9 In light of the foregoing, we affirm the trial court's order denying defendant's motion for a stay and dismiss the balance of this appeal. We remand for further proceedings.

¶ 10 Affirmed in part and dismissed in part; cause remanded.