

**MOCK HOMES, INC. EX REL. STANLEY V. WAKELY, 1970-NMSC-152, 82 N.M. 179,
477 P.2d 813 (S. Ct. 1970)**

**MOCK HOMES, INC., by William P. Stanley, Trustee in
Bankruptcy, Defendant-Appellee and Cross-Appellee,
vs.
ERNEST J. WAKELY and JANET C. WAKELY, his wife, and SANDIA
SAVINGS AND LOAN ASSOCIATION, Defendants-Appellants,
v. ORRION PERRY, d/b/a GAS APPLIANCE AND
SERVICE COMPANY, Defendant-Appellee, v.
DAR TILE COMPANY and BLUEHER LUMBER
COMPANY, Defendants-Appellees
and Cross-Appellants**

No. 9019

SUPREME COURT OF NEW MEXICO

1970-NMSC-152, 82 N.M. 179, 477 P.2d 813

December 14, 1970

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, LARRAZOLO,
Judge

COUNSEL

HINES & SULLIVAN, SMITH & PIPER, Albuquerque, New Mexico, Attorneys for
Defendants-Appellants.

McATEE, MARCHIONDO & MICHAEL, PAT CHOWNING, Albuquerque, New Mexico,
Attorneys for Defendant-Appellee, Orrion Perry.

OLIVER BURTON COHEN, Albuquerque, New Mexico, Attorney for Defendants-
Appellees, Dar Tile and Blueher Lumber.

JUDGES

WATSON, Justice, wrote the opinion.

WE CONCUR:

J. C. Compton, C.J., Thomas F. McKenna, J.

AUTHOR: WATSON

OPINION

WATSON, Justice.

{1} A complaint was filed with the District Court of Bernalillo County by Carroll-Loy Plumbing and Heating Company, Inc., alleging that it performed labor and furnished materials at the request of Mock Homes, Inc. on the home of Ernest J. and Janet C. Wakely for which it had not been paid. The complaint sets out the plaintiff's lien and joins the Wakelys, their mortgage holder, and other lien claimants as defendants. From the record before us it does not appear that a judgment has ever been entered on this complaint.

{2} A judgment was entered in favor of lien-claimants Orrion Perry, Blueher Lumber Company, Inc., and Dar Tile Company, Inc. on their cross-claims; and the Wakelys and their mortgagee, Sandia Savings and Loan Association, have appealed from this judgment. Blueher and Dar Tile have cross-appealed. With the plaintiff's claim undetermined, this judgment appears to be one entered upon fewer than all of the claims and is not upon the express determination that there is no just reason for delay. Rule 54(b) [§ 21-1-1(54)(b), N.M.S.A. 1953 Comp.] It is not a final judgment from which an appeal {180} will lie to this court. *Carpenter v. Merrett*. (Decided December 7, 1970), 82 N.M. 185, 477 P.2d 819 (1970).

{3} The appeal and cross-appeals are dismissed.

{4} IT IS SO ORDERED.

WE CONCUR:

J.C. Compton, C.J., Thomas F. McKenna, J.