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The ''officially released'' date that appears near the beginning of each opinion is the date the opinion will be published in the Connecticut Law Journal or the date it was released as a slip opinion. The operative date for the beginning of all time periods for filing postopinion motions and petitions for certification is the ''officially released'' date appearing in the opinion. In no event will any such motions be accepted before the ''officially released'' date.

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JOHN P. NOLAN ET AL. *v.* CITY OF MILFORD
(AC 24957)

Schaller, Dranginis and McLachlan, Js.

Argued November 19, 2004—officially released January 11, 2005

(Appeal from Superior Court, judicial district of Ansonia-Milford, Nadeau, J.)

Louis J. Bonsangue, with whom, on the brief, was *Max Stuart Case*, for the appellants (plaintiffs).

Matthew B. Woods, with whom, on the brief, was *Cynthia C. Anger*, assistant city attorney, for the appellee (defendant).

Opinion

PER CURIAM. The plaintiffs, John P. Nolan and Laurel Dixon-Nolan, owners of real property in Milford, appealed to the Superior Court from the tax assessment of their property pursuant to General Statutes § 12-117a, claiming that their property was overassessed. After a full evidentiary hearing, the trial court agreed with the plaintiffs that the property had been overassessed and adjusted the assessment from the initial value of $2,546,700, set by the tax assessor for the defendant city of Milford, to $2,066,880. The court ordered the defendant to pay the plaintiffs any overpayment on the basis of the new assessment, ''plus interest on the overpayment and costs.'' No rate of interest was specified. The plaintiffs, who argue that the true value of the property was actually $1,747,000, now appeal to this court. Although the plaintiffs face a daunting burden on appeal to convince this court that the trial court's factual findings were clearly erroneous; see *Grolier, Inc.* v. *Danbury*, 82 Conn. App. 77, 78, 842 A.2d 621 (2004); we do not reach the merits of their claim because we conclude that they have not appealed from a final judgment.

The plaintiffs sought interest pursuant to General Statutes § 37-3a, which provides for interest at the rate of ''ten percent a year, and no more . . . in civil actions . . . .'' That is not a fixed rate, but the maximum rate of interest that the court can, in its discretion, award. *Sears, Roebuck & Co.* v. *Board of Tax Review*, 241 Conn.

749, 765–66, 699 A.2d 81 (1997). In *Balf Co.* v. *Spera Construction Co.*, 222 Conn. 211, 214–15, 608 A.2d 682 (1992), our Supreme Court concluded that the judgment on the merits was not a final judgment for the purpose of appeal when, as here, there is an unresolved claim for discretionary prejudgment interest.

Attempting to cure that defect, the parties in this case stipulated to a withdrawal of the interest claim. An appeal from a judgment that is not final, however, is void ab initio. See *Stroiney* v. *Crescent Lake Tax District*, 197 Conn. 82, 86 n.3, 495 A.2d 1063 (1985). Accordingly, we conclude that the appeal must be dismissed for lack of a final judgment. In *Gianetti* v. *Meszoros*, 268 Conn. 424, 426, 844 A.2d 851 (2004), the Supreme Court remanded the case to the trial court for a determination of the amount of prejudgment interest to be awarded. Because that portion of the case has been withdrawn, that option is not available here.

The appeal is dismissed.