

STATE OF MICHIGAN
COURT OF APPEALS

JAY S. VELDHEER and KATHRYN J. VELDHEER,

Plaintiffs-Appellees,

v

GLORIA LAPONSIE,

Defendant-Appellant,

and

JACK LAPONSIE, JR., JACK LAPONSIE, SR.,
JIM LOFTUS, and DENISE LOFTUS,

Defendants.

UNPUBLISHED

May 24, 1996

No. 175475

LC No. 93-080248-CH

Before: Doctoroff, C.J., and Neff and Fitzgerald, JJ.

PER CURIAM.

Defendant Gloria LaPonsie appeals as of right the judgment holding her personally liable for any deficiency resulting from the sale of property in this foreclosure action. We dismiss.

Plaintiffs argue that this appeal should be dismissed because defendant was defaulted for failing to answer plaintiffs' complaint and failed to move to set aside that default. We agree. Generally, a defaulted party may not proceed with the action until the default has been set aside. MCR 2.603(A)(3); *Michigan Bank-Midwest v D J Reynaert, Inc.*, 165 Mich App 630, 648; 419 NW2d 439 (1988). Although a default settles the question of liability as to well-pleaded allegations and precludes the defaulting party from litigating that issue, the party has a right to participate if further proceedings are necessary to determine the amount of damages. MCR 2.603(B)(3)(b)(ii); *Wood v DAIIE*, 413 Mich 573, 578; 321 NW2d 653 (1982). In this appeal, defendant, who concedes that she was a necessary party to this action, challenges her personal liability for the deficiency judgment rather than the amount of

the damages. Because her default was not set aside, defendant has no standing to appeal the issue of liability and, therefore, the appeal should be dismissed.

Dismissed.

/s/ Martin M. Doctoroff

/s/ Janet T. Neff

/s/ E. Thomas Fitzgerald