

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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NORTH LAKE INVESTMENTS, LLC,

Plaintiff-Appellant,

v

JAMES DROLETT, GAIL DROLETT, and  
DOROTHY H. SPROUT, as Personal  
Representative of the Estate of JOHN SPROUT,  
Deceased,

Defendants-Appellees.

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UNPUBLISHED

June 17, 2003

No. 237915

Washtenaw Circuit Court

LC No. 00-001323-CH

Before: Fitzgerald, P.J., and Hoekstra and O’Connell, JJ.

PER CURIAM.

Plaintiff appeals by right the trial court’s order granting summary disposition for defendants pursuant to MCR 2.116(C)(8) and dismissing plaintiff’s claim for slander of title. We reverse.

Plaintiff argues that the trial court erred in dismissing its slander of title claim against defendants. This Court reviews this issue de novo. *Beaty v Hertzberg & Golden, PC*, 456 Mich 247, 253; 571 NW2d 716 (1997).

Summary disposition under MCR 2.116(C)(8) is appropriate when a party has failed to state a claim on which relief may be granted. *Horace v City of Pontiac*, 456 Mich 774, 749; 575 NW2d 762 (1998). This motion tests the legal sufficiency of a claim, and all “well-pleaded factual allegations are accepted as true and construed in a light most favorable to the nonmovant.” *Maiden v Rozwood*, 461 Mich 109, 119; 597 NW2d 817 (1999). A (C)(8) motion should be granted only “where the claims are so clearly unenforceable as a matter of law that no factual development could possibly justify recovery.” *Wade v Dep’t of Corrections*, 439 Mich 158, 163; 483 NW2d 26 (1992).

Earlier in this case’s rather lengthy procedural history, summary disposition was granted to plaintiff, who moved to have defendants’ earlier fraudulent conveyance complaint dismissed. In that case, the trial court issued an order extinguishing any lis pendens against the disputed property. The trial court found in the instant case that its previous order terminated the lis pendens at issue in this case as well as the previous lis pendens. Therefore, the trial court

concluded that plaintiff did not have a claim based on the second lis pendens because the second lis pendens – like the one before it – was discharged by the trial court’s previous order.

This reasoning contradicts controlling case law on this issue. In *Maedel v Wies*, 309 Mich 424, 429; 15 NW2d 692 (1944), our Supreme Court held that a lis pendens can only be terminated by “final decree” and that a lis pendens remains in effect during the time allowed for appeal. Here, at the time the summary disposition motion was heard in the instant case, defendants’ appeal was pending in this Court.<sup>1</sup> Defendants’ claim of fraudulent conveyance was the underlying basis for the lis pendens at issue here. Because no “final decree” had been entered with regard to the fraudulent conveyance claim, the trial court erred in concluding that there was an insufficient legal basis for plaintiff’s slander of title claim. See *id.* In other words, until this Court – and perhaps the Supreme Court – decided the fraudulent conveyance appeal, the trial court could not determine whether plaintiff had sufficient legal basis for its slander of title claim.

Reversed.

/s/ E. Thomas Fitzgerald  
/s/ Joel P. Hoekstra  
/s/ Peter D. O’Connell

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<sup>1</sup> Defendants appealed from the trial court’s grant of summary disposition in the earlier case. This Court subsequently reversed the trial court’s grant of summary disposition and remanded the case for further proceedings. See *Drolett v Boltach*, unpublished opinion per curiam of the Court of Appeals, issued September 3, 2002 (Docket No. 230680).