

STATE OF MICHIGAN  
COURT OF APPEALS

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AUDREY HARVEY,

Plaintiff-Appellant,

v

PATRICK MENDOLA, LAURA MENDOLA,  
and FIFTH THIRD BANK, a/k/a OLD KENT  
BANK OF ALMONT,

Defendants-Appellees.

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UNPUBLISHED

March 18, 2003

No. 234505

Macomb Circuit Court

LC No. 99-001255-CH

Before: Griffin, P.J., and Neff and Gage, JJ.

MEMORANDUM.

Plaintiff appeals by leave granted the order extending the period for redeeming property pending the resolution of defendants' appeal. We reverse. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court granted plaintiff's motion for summary disposition in this mortgage foreclosure action. Plaintiff subsequently purchased the property at a sheriff's sale. Defendants appealed, and the trial court granted their motion to extend the six-month period for redeeming the property. MCL 600.3140. The Court granted plaintiff's application for leave to appeal from that order.

MCL 600.3140 provides that a mortgagor may redeem the premises sold by paying the purchaser within six months of the sale the bid amount plus interest. The right to redeem under the statute is a legal right and can neither be enlarged nor abridged by the court. *Grossman Building Co v Elliott*, 382 Mich 596, 603; 171 NW2d 411 (1969). Absent equitable considerations such as fraud, the plain intent of the statute must be literally followed. *Id.* at 606. The Supreme Court recently declined to overrule *Grossman*, finding that it properly applies the clear language of the statute. *Flynn v Korneffel*, 451 Mich 186, 203, n 31; 547 NW2d 249 (1996).

There was no allegation of fraud, accident, or mistake that would allow the trial court to exercise equitable powers to extend the redemption period. The court erred in failing to apply the clear statutory provision. Defendants no longer have a right to redeem the property.

Reversed.

/s/ Richard Allen Griffin

/s/ Janet T. Neff

/s/ Hilda R. Gage