

STATE OF MICHIGAN
COURT OF APPEALS

TERRANCE RUNDELL and STACY RUNDELL,

Plaintiffs-Appellants,

v

ETHELBERT SLATER and ABIGAIL SLATER,

Defendants-Appellees.

UNPUBLISHED

March 7, 2006

No. 257346

Tuscola Circuit Court

LC No. 03-022099-CH

Before: Cooper, P.J., and Jansen and Markey, JJ.

PER CURIAM.

Plaintiffs appeal as of right from the trial court's order granting summary disposition to defendants. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendants originally filed suit against plaintiffs in the district court for forfeiture of property due to plaintiffs' failure to make payments under a land contract. That suit resulted in a judgment for defendants in the amount of \$5,317.85. The judgment was unclear, however, as to whether the award included such costs as the title fee, transfer tax, delinquent property taxes, etc. Plaintiffs, believing that such fees and taxes were to be deducted from the judgment amount, tendered an offer to defendants for the balance (\$4,336.00). Defendants refused the offer because they felt entitled to the full judgment amount. Plaintiffs took no action in the district court to clarify the ambiguity.

Instead, plaintiffs filed the instant lawsuit in the Tuscola Circuit Court on October 29, 2003, alleging defendants breached the land contract by failing to accept plaintiff's proffered payment by and transfer title to the property. Defendants moved for summary disposition on several grounds, including that the suit was barred by res judicata. The trial court agreed, ruling that summary disposition was proper under MCR 2.116(C)(7). The court held that plaintiffs could not collaterally attack the district court judgment and that "[t]he proper place to bring those claims would be the court having original jurisdiction."

This Court reviews a trial court's decision on a motion for summary disposition pursuant to MCR 2.116(C)(7) de novo to determine whether the moving party was entitled to judgment as a matter of law. *Limbach v Oakland Co Bd of Rd Comm'rs*, 226 Mich App 389, 395; 573 NW2d 336 (1997). The applicability of the doctrine of res judicata is a question of law that is also reviewed de novo. *Ditmore v Michalik*, 244 Mich App 569, 574; 625 NW2d 462 (2001).

Res judicata bars relitigation of claims that are based on the same transaction or events as a prior suit. *Id.* at 577. Four conditions must be satisfied in order to apply res judicata. First, the prior action must have been decided on its merits. Second, the prior decision resulted in a final judgment. Third, both actions involved the same parties. And fourth, the matter in the second case was or could have been resolved in the first case. *Id.* at 576.

The trial court correctly ruled that plaintiffs' claim was barred on the basis of res judicata. The district court case was filed by defendants against plaintiffs—the same parties as here. The prior action resulted in a final judgment following a hearing in the district court on the merits. The district court case calculated the balance due on the contract and possession of the property. Although there was an ambiguity as to whether the balance amount included such things as title fee, transfer fee, delinquent property taxes, etc., the district court was the appropriate forum to clarify the judgment. The relief plaintiffs requested in the instant action necessarily required a determination of whether they tendered the full amount of the district court judgment to defendants. Only when that question is answered is it possible to determine which party breached the terms of the land contract. But the circuit court could not make that preliminary determination without relitigating the question already decided (albeit ambiguously) by the district court. Clearly, the matter could have been resolved in the district court if only plaintiffs had sought clarification from the district court through a motion for reconsideration, clarification or guidance or by a direct appeal to the circuit court. Plaintiffs' attempt to litigate de novo the district court judgment amount is barred by the doctrine of res judicata.

We affirm.

/s/ Jessica R. Cooper
/s/ Kathleen Jansen
/s/ Jane E. Markey