

STATE OF MICHIGAN
COURT OF APPEALS

ANJEN GLOBAL COMMODITIES, LLC,
Plaintiff-Appellee,

UNPUBLISHED
November 27, 2012

v

No. 310107
Wayne Circuit Court
LC No. 11-013775-CH

HARALAMBIS PROPERTIES, LLC, and
STAVROS HARALAMBIS,

Defendants-Appellants,

and

TRC LAND DEVELOPMENT, LLC,

Defendant.

Before: JANSEN, P.J., and STEPHENS and RIORDAN, JJ.

PER CURIAM.

Defendants Stavros Haralambis and Haralambis Properties, LLC, appeal as of right the order granting plaintiff Anjen Global Commodities, LLC, summary disposition and a judgment quieting title in the subject property, which plaintiff purchased at a tax foreclosure sale. We affirm.

The trial court did not clarify whether it granted plaintiff's summary disposition motion under MCR 2.116(C)(9), (C)(10), or both. A court may grant summary disposition under MCR 2.116(C)(10) when there is no genuine issue regarding any material fact. *Ritchie-Gamester v City of Berkley*, 461 Mich 73, 76; 597 NW2d 517 (1999). A court may grant summary disposition under MCR 2.116(C)(9) when the defendant failed to plead a valid defense and, therefore, no factual development could deny the plaintiff's claim. *Slater v Ann Arbor Public Schools Bd of Ed*, 250 Mich App 419, 425; 648 NW2d 205 (2002).

Defendant Haralambis argues first that there was a genuine issue regarding whether he paid his 2008 property taxes, because he provided in the trial court a copy of a February 2010 check to the City of Melvindale. However, defendant alleged in his trial court pleadings that this was payment of the 2010 property taxes. Based on the foreclosed property tax statement, the February 2010 payment was applied to the 2009 taxes, which were due at that time. Defendant has never claimed that he informed the city he was attempting to pay the 2008 taxes, which were

to be paid at the county treasurer after they became delinquent on March 1, 2009. MCL 211.78a(2). Defendant does not allege that he made any other efforts to pay any property taxes to the city or county treasurer.

Defendant did not sufficiently plead the defense that he had paid the 2008 taxes. Further, even the check alone did not create a genuine issue of material fact that defendant paid the 2008 taxes. If defendant became confused about which taxes he had paid, as a result of his repeated failure to pay his property taxes on time since 2005, the notice provisions were intended to protect him.

Defendant argues that there was also a genuine issue of material facts regarding whether he received sufficient notice. The foreclosing government must determine an address “reasonably calculated to apprise the owners” of the show cause and foreclosure hearings and send notice by certified mail, return receipt requested, at least 30 days before the show cause hearing. MCL 211.78i(2). Defendant does not argue that the county failed to send notice to any address on record. He argues that the address on record had the wrong city name; however, the acting postmaster asserted that the cities share a post office and the mail was delivered correctly. Further, defendant offered no evidence contradicting documentation that his sister-in-law signed for the mail.

The governmental unit or an authorized representative or agent must also make a personal visit to the property to determine whether the property is occupied. MCL 211.78i(3). Defendant argues that the representative incorrectly identified the property as unoccupied. If the property appears to be occupied, the representative must attempt to serve the person occupying the property with notice of the show cause and foreclosure hearings. MCL 211.78i(3)(a). If the governmental unit or representative “is not able to personally meet with the occupant,” he must conspicuously place on the premises the notices and a notice that explains the property will be foreclosed unless forfeited unpaid delinquent taxes, interest, penalties, and fees are paid by a specified time. MCL 211.78i(3)(d). Defendant conceded in the trial court that this tacking occurred and suggested only that the notice might have blown away. Therefore, there was no genuine issue that the representative complied with the requirements of MCL 211.78i(3)(d).

Finally, defendant argues that summary disposition was premature. Summary disposition before the completion of discovery is not premature if there is no reasonable chance further discovery will result in evidence supporting the opposing party. *Oliver v Smith*, 269 Mich App 560, 567; 715 NW2d 314 (2006); *Peterson Novelties, Inc v City of Berkley*, 259 Mich App 1, 24-25; 672 NW2d 351 (2003).

In the present case, there was no reasonable chance that further discovery would have supported defendant. Defendant argues that the city could have provided more information regarding why the payment was not applied to the 2008 taxes. However, defendant himself was confused throughout the proceedings regarding which taxes he paid and offered no evidence that the payment should have been applied to delinquent taxes, rather than those due to the city at the time he paid. Defendant also argues that discovery could have addressed why the representative deemed the property unoccupied; however, the representative met his statutory obligations regardless of whether the property was occupied.

The trial court correctly granted plaintiff summary disposition because defendant did not plead a valid defense and there were no genuine issues of material fact. MCR 2.116(C)(9) and (C)(10).

Affirmed.

/s/ Kathleen Jansen
/s/ Cynthia Diane Stephens
/s/ Michael J. Riordan