

STATE OF MICHIGAN
COURT OF APPEALS

DUANE L. CLARK II,

Plaintiff-Appellee,

v

ALIOUNE NDIAYE,

Defendant-Appellant.

UNPUBLISHED

June 7, 2007

No. 271334

Wayne Circuit Court

LC No. 06-602351-CH

Before: Meter, P.J., and Kelly and Fort Hood, JJ.

PER CURIAM.

Defendant appeals as of right from a circuit court order granting plaintiff's motion for summary disposition and quieting title to certain property in plaintiff. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Both parties claim title to property once owned by Kristina Sapelak, who acquired the property in April 2004. Sapelak had obtained a mortgage through 1st Community Mortgage Services, which later assigned the mortgage to Fifth Third Mortgage Company. Fifth Third foreclosed on the mortgage by advertisement and Federal Home Loan Mortgage Company purchased the property at a foreclosure sale. Sapelak did not redeem the property and Federal later sold it to plaintiff. Defendant claims title through a quitclaim deed that Sapelak allegedly executed in May 2004 but that was not recorded until after Federal acquired the property.

Defendant raises several issues on appeal. Defendant's claim that the trial court failed to allow his attorney to speak at the motion hearing is not supported by the record. Apart from the fact that a court is authorized to dispense with or limit argument on motions, MCR 2.119(E)(3), a review of the record discloses that counsel was given an opportunity to address the trial court without interruption or limitation.

Defendant's claim that the trial court denied him the right to present documentary evidence also lacks record support. The record discloses that defendant did not offer any documentary evidence in response to plaintiff's motion or during argument.¹ We also find no

¹ To the extent that defendant appears to imply that the trial court was obligated to reopen the
(continued...)

merit to defendant's argument that the trial court erred by not allowing him to speak at the motion hearing. Defendant did not ask to address the court during the hearing. Further, defendant was represented by counsel, who was allowed to address the court regarding plaintiff's motion.

Defendant also contends that the trial court erred in granting plaintiff's motion when it knew that defendant had a dispute with his attorney, who had sought to withdraw from the matter. Defendant fails to address the merits of this claim or present any supporting authority, and thus it is deemed abandoned. *Silver Creek Twp v Corso*, 246 Mich App 94, 99; 631 NW2d 346 (2001). It is not sufficient for a party "simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position." *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998).

Defendant lastly contends that the trial court erred in granting plaintiff's motion when discovery was still open. As with the preceding issue, defendant fails to address the merits of his claim or present any supporting authority. Therefore, it is deemed abandoned. *Silver Creek Twp, supra* at 99. In any event, although discovery was incomplete, that alone does not preclude a court from granting summary disposition. "If a party opposes a motion for summary disposition on the ground that discovery is incomplete, the party must at least assert that a dispute does indeed exist and support that allegation by some independent evidence." *Bellows v Delaware McDonald's Corp*, 206 Mich App 555, 561; 522 NW2d 707 (1994). Here, defendant failed to present any independent evidence showing that a genuine dispute existed.²

Affirmed.

/s/ Patrick M. Meter
/s/ Kirsten Frank Kelly
/s/ Karen M. Fort Hood

(...continued)

hearing after the court had ruled, defendant has failed to develop this argument or provide appropriate citation to authority and thus has abandoned the issue. *Silver Creek Twp v Corso*, 246 Mich App 94, 99; 631 NW2d 346 (2001).

² We note that, in his brief on appeal, defendant appears to make an additional argument by stating that the trial court "did not have enough information . . . to make a proper decision." However, defendant thereafter fails, once again, to provide authority or to develop and support any cogent argument concerning this claim and has thus abandoned it. *Silver Creek, supra* at 99.