

STATE OF MICHIGAN
COURT OF APPEALS

KIRKLAND DUDLEY and TEDRA DUDLEY,
Plaintiffs-Appellants,

UNPUBLISHED
May 20, 2014

v

BANK OF AMERICA,

Defendant-Appellee.

No. 312771
Wayne Circuit Court
LC No. 12-003879-CH

Before: CAVANAGH, P.J., and OWENS and M.J. KELLY, JJ.

PER CURIAM.

Plaintiffs appeal as of right the trial court's order granting defendant's motion for summary disposition pursuant to MCR 2.116(C)(8) (failure to state a claim for relief) and dismissing plaintiffs' claim for quiet title. We affirm.

After plaintiffs defaulted on the mortgage on their property, BAC Home Loans Servicing foreclosed by advertisement, and defendant, as successor by merger to BAC, purchased the property at the sheriff's sale. It is undisputed that plaintiffs did not attempt to challenge the foreclosure or redeem the property within the redemption period. Instead, on March 20, 2012, after the redemption period expired, plaintiffs filed the present action seeking to quiet title to the property due to alleged fraud and irregularity in the foreclosure proceedings. Defendant moved for summary disposition pursuant to MCR 2.116(C)(8), arguing, among other things, that plaintiffs did not have standing to challenge the foreclosure sale because once the redemption period expired, title vested in defendant. The trial court agreed and granted the motion. On appeal, plaintiffs argue that due to the alleged fraud and irregularity in the foreclosure proceedings, they had standing to challenge the foreclosure sale. We disagree.

"[W]hether a party has standing to bring an action is a question of law reviewed de novo." *Franklin Historic Dist Study Comm v Village of Franklin*, 241 Mich App 184, 187; 614 NW2d 703 (2000). To have standing, a party must have "a legal cause of action." *Lansing Sch Ed Ass'n v Lansing Bd of Ed*, 487 Mich 349, 372; 792 NW2d 686 (2010). MCL 600.3201 *et seq* governs foreclosures by advertisement and the rights and obligations of the parties. Pursuant to MCL 600.3240(1) and (8), once the sheriff's sale is complete, any person lawfully entitled under the mortgage may redeem the property by paying the requisite amount within six months. If the mortgagor fails to redeem the property within the six-month redemption period, then the purchaser of the sheriff's deed is vested with "all the right, title, and interest" in the property.

MCL 600.3236;¹ see *Piotrowski v State Land Office Bd*, 302 Mich 179, 187; 4 NW2d 514 (1942). Accordingly, if the mortgagor fails to redeem the property within the redemption period, then the mortgagor's rights in and title to the property are extinguished. See *Piotrowski*, 302 Mich at 187. However, a court may grant an equitable extension of the redemption period if the mortgagor can show that there was fraud or irregularity. See *Senters v Ottawa Sav Bank, FSB*, 443 Mich 45, 55; 503 NW2d 639 (1993); *Schulthies v Barron*, 16 Mich App 246, 247-248; 167 NW2d 784 (1969). "The law in Michigan does not allow an equitable extension of the period to redeem from a statutory foreclosure sale in connection with a mortgage foreclosed by advertisement and posting of notice in the absence of a clear showing of fraud, or irregularity." *Schulthies*, 16 Mich App at 247-248.

In this case, the redemption period expired on January 20, 2012, and it is undisputed that plaintiffs did not redeem the property within the redemption period. Once the redemption period expired, "all the right, title, and interest" in the property, MCL 600.3236, vested in defendant. Although a clear showing of fraud or irregularity allows for an equitable extension of the redemption period, the redemption period cannot be extended once it has expired. Because plaintiffs waited until after the redemption period expired to file the present action, their rights in and title to the property have been extinguished, and thus, they do not have standing to challenge the foreclosure sale. Accordingly, the trial court properly dismissed plaintiffs' complaint.

Because our resolution of this issue is dispositive, we need not consider plaintiffs' other arguments on appeal.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Donald S. Owens
/s/ Michael J. Kelly

¹ MCL 600.3236 provides, in pertinent part,

Unless the premises described in such deed shall be redeemed within the time limited for such redemption as hereinafter provided, such deed shall thereupon become operative, and shall vest in the grantee therein named, his heirs or assigns, all the right, title, and interest which the mortgagor had at the time of the execution of the mortgage, or at any time thereafter, . . . but no person having any valid subsisting lien upon the mortgaged premises, or any part thereof, created before the lien of such mortgage took effect, shall be prejudiced by any such sale, nor shall his rights or interests be in any way affected thereby.