

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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CYNTHIA A. SAGMANI,

Plaintiff-Appellant,

v

LENDING ASSOCIATES LLC,

Defendant,

and

FLAGSTAR BANK FSB and MORTGAGE  
ELECTRONIC REGISTRATION SYSTEMS  
INC.,

Defendants-Appellees.

UNPUBLISHED

August 7, 2012

No. 302865

Oakland Circuit Court

LC No. 2010-111201-CH

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Before: TALBOT, P.J., and SERVITTO and M. J. KELLY, JJ.

PER CURIAM.

Plaintiff appeals by leave granted the trial court's order granting defendants summary disposition under MCR 2.116(C)(8) and (10). We affirm.

Plaintiff filed the instant action when her home was foreclosed upon by advertisement. After plaintiff defaulted on her mortgage, the property was sold at a sheriff's sale on December 22, 2009. She asserted, among other things, that defendants Lending Associates, LLC and Flagstar Bank FSB made fraudulent misrepresentations to her; that all defendants violated the Mortgage Brokers, Lenders and Servicer Licensing Act; and, that defendants failed to comply with statutory foreclosure requirements. Flagstar Bank FSB and Mortgage Electronic Registration Systems Inc., (hereafter "defendants") moved for summary disposition, contending that because the period for redeeming plaintiff's property had expired, plaintiff no longer had standing to pursue her complaint. The trial court agreed, finding that because her interest in the property was extinguished when the foreclosure redemption period expired shortly after she filed her complaint, plaintiff lost standing to pursue her complaint.

This Court reviews de novo a trial court's decision on a motion for summary disposition. *BC Tile & Marble Co, Inc v Multi Bldg Co, Inc*, 288 Mich App 576, 583; 794 NW2d 76 (2010).

MCR 2.116(C)(8) tests the legal sufficiency of the claim based on the pleadings alone to determine whether the plaintiff has stated a claim on which relief may be granted. *Spiek v Michigan Dept of Transp*, 456 Mich 331, 337; 572 NW2d 201 (1998). If no factual development could justify the plaintiff's claim for relief, the motion should be granted. *Id.* MCR 2.116(C)(10), on the other hand, tests the factual support for the plaintiff's claim. *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999). "In evaluating a motion for summary disposition brought under this subsection, a trial court considers affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties, [], in the light most favorable to the party opposing the motion. Where the proffered evidence fails to establish a genuine issue regarding any material fact, the moving party is entitled to judgment as a matter of law." *Id.*

Standing requires a real interest in the cause of action or a legal or equitable right, title, or interest in the subject matter of the controversy. *MOSES, Inc v Southeast Michigan Council of Governments*, 270 Mich App 401, 414; 716 NW2d 278 (2006). A mortgagor loses all interest in property when the redemption period ends. *Piotrowski v State Land Office Board*, 302 Mich 179, 186-188; 4 NW2d 514 (1942). A party can challenge the foreclosure after the redemption period only if there is clear evidence of fraud or irregularity in the foreclosure proceedings. See *Senters v Ottawa Savings Bank, FSB*, 443 Mich 45, 55-57; 503 NW2d 639 (1993); *Sweet Air Inv v Kenney*, 275 Mich App 492, 497; 739 NW2d 656 (2007), quoting *US v Garno*, 974 F Supp 628, 633 (ED Mich 1997); *Manufacturers Hanover Mortgage Co v Snell*, 142 Mich App 548, 553; 370 NW2d 401 (1985); *Schulthies v Barron*, 16 Mich App 246, 247-248; 167 NW2d 784 (1969).

Plaintiff relied on two allegations when challenging the summary disposition motion in the trial court and now on appeal. She first alleges that the foreclosure was invalid because defendants violated MCL 600.3204(4)(a), which states that foreclosure by advertisement shall not be commenced on a property claimed as a principal residence exempt from tax under MCL 211.7cc, until notice is mailed to the mortgagor as required by MCL 600.3205a. Following this notice, mortgagors have the opportunity to seek loan modification under MCL 600.3205b and MCL 600.3205c. See MCL 600.3204(4)(b)-(g).

Defendants do not claim that notice was mailed to plaintiff. Rather, defendants argue correctly that this notice requirement did not apply because the first notice was published on June 23, 2009. MCL 600.3204(5) expressly states that subsection (4) applies only to proceedings under the chapter in which the first notice required under MCL 600.3208 was published after July 5, 2009 and before December 31, 2012. Defendants offered evidence that they complied with the requirement in MCL 600.3208 that notice of foreclosure be published for four successive weeks, starting June 23, 2009. Plaintiff does not dispute this or offer evidence to the contrary. If a statute is unambiguous, its plain meaning reflects the Legislature's intent. *In re MCI Telecommunications Complaint*, 460 Mich 396, 411; 596 NW2d 164 (1999). The statutory language is unambiguous such that no written notice was required to plaintiff and plaintiff's claim must fail.

Plaintiff's second allegation is that the defendant Flagstar misrepresented that her loan modification request was approved and foreclosure proceedings would stop. Plaintiff offered no evidence, beyond letters from her attorney requesting the modification and providing additional

information Flagstar allegedly requested. Plaintiff does not claim the modification was in writing. No action can be brought against a financial institution to enforce a promise to modify a loan unless it is written and signed, and the courts should summarily dispose of any attempt. MCL 566.132(2); *Crown Technology Park v D&N Bank, FSB*, 242 Mich App 538, 550, 552; 619 NW2d 66 (2000).

Further, plaintiff failed to plead fraud with the required specificity. While plaintiff alleged that Flagstar promised that a loan modification was approved, plaintiff only made a general allegation. She did not allege when, how, or by whom the representation was made, nor did she indicate what type of modification was promised. Such allegation does not satisfy the specificity requirement of MCR 2.112(B)(1). See, e.g., *LaMothe v Auto Club Ass'n*, 214 Mich App 577, 586; 543 NW2d 42 (1995).

Plaintiff failed to allege any legally actionable fraud or irregularity in the foreclosure proceedings. Therefore, the trial court did not err when it found that she lacked standing to challenge the foreclosure after the redemption period expired and granted defendants summary disposition.

Affirmed.

/s/ Michael J. Talbot  
/s/ Deborah A. Servitto  
/s/ Michael J. Kelly