

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

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SAM'S TOWN AND COUNTRY MARKET,  
INC., BUTTY BROTHERS, INC., and SAMMY  
BUTTY,

UNPUBLISHED  
March 20, 2007

Plaintiffs-Appellants,

v

MIHELICH & KAVANAUGH, P.L.C., JOSEPH  
E. MIHELICH, KEVIN RICHARD LYNCH,  
JESSICA B. CUMMINGS, and MICHAEL  
KAVANAUGH,

No. 270940  
Oakland Circuit Court  
LC No. 2005-065735-NM

Defendants-Appellees.

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Before: Jansen, P.J., and Sawyer and Bandstra, JJ.

PER CURIAM.

Plaintiffs appeal from an order of the circuit court granting summary disposition on plaintiffs' legal malpractice claim against defendants. We affirm.

This action arises out of a sale of real property in the City of Troy on land contract. By a separate agreement, plaintiff also sold his retail establishment and liquor license to the same purchaser. There had been a history of defaults on the land contract over a ten-year period—in fact, plaintiff describes the purchaser as being “in continual default.” Defendants were engaged to take action, which they did by filing a land contract foreclosure action. This action was ultimately settled.

Plaintiffs thereafter instituted the instant legal malpractice action, alleging that defendants should have pursued a land contract forfeiture action instead of a foreclosure action. Defendants filed a motion for summary disposition under MCR 2.116(C)(10) (no genuine issue of material fact).

Plaintiffs claim that forfeiture was the better remedy for a number of reasons. First, it would require that the purchaser come up with a greater sum of money to cure the default and save the property and the purchaser would have to do so in a shorter period of time. Second, if the purchaser was unable to do so, the property would revert to plaintiffs and plaintiffs would recover all of the equity in the property. Defendants maintain that foreclosure was pursued as the better remedy because it would bring finality to their client's dealings with the purchaser.

That is, one way or the other, the land contract would be paid off. But in a forfeiture action, if the purchaser had cured the default, the land contract would continue, along with the possibility of future problems. Defendants maintain that plaintiffs wanted to end the relationship with the purchaser.

We initially note that plaintiffs do not provide any substantiation for their claim that a forfeiture would have required the purchaser to raise more than \$150,000 in additional funds to avoid forfeiture than what would be needed to be raised in order to redeem from the foreclosure. We fail to see how the purchaser would have had to raise more than the outstanding balance of the land contract in order to avoid forfeiture—if the land contract were paid in full, any other default would be rendered meaningless. Moreover, we are not persuaded that plaintiffs can establish that such a large sum would be necessary to cure the default. Even accepting plaintiffs' factual allegations as true, we are not persuaded that plaintiffs can establish that the purchaser would have had to pay more than \$75,000 to avoid a forfeiture (\$25,000 in delinquent payments plus \$50,000 in overdue taxes).

In any event, the trial court granted summary disposition after giving a detailed and well-reasoned opinion. We do not disagree with that reasoning nor can we express the analysis better. Accordingly, we affirm the trial court for the reasons stated in that opinion.

Affirmed. Defendants may tax costs.

/s/ Kathleen Jansen  
/s/ David H. Sawyer  
/s/ Richard A. Bandstra