

STATE OF MICHIGAN
COURT OF APPEALS

RADIYAAH B. EL-FIL,

Plaintiff-Appellant,

v

DEUTSCHE BANK NATIONAL TRUST
COMPANY,

Defendant-Appellee.

UNPUBLISHED

April 23, 2009

No. 284043

Wayne Circuit Court

LC No. 07-720892-CH

Before: Borrello, P.J., and Murphy and M. J. Kelly, JJ.

MEMORANDUM.

Plaintiff appeals as of right the circuit court's order granting defendant's motion for summary disposition. Because we conclude that there were no errors warranting relief, we affirm.

In 2006, plaintiff defaulted on a note secured by a mortgage on her home and her lender foreclosed on the mortgage. Plaintiff did not redeem the property and, in June 2007, her lender sold it to defendant.

In July 2007, defendant filed a complaint in district court seeking to evict plaintiff from the home and plaintiff sued defendant in circuit court in an attempt to stop the eviction. After defendant moved for summary disposition of plaintiff's complaint under MCR 2.116(C)(8), plaintiff moved for leave to amend her complaint. The trial court eventually denied plaintiff's motion to amend and granted summary disposition in defendant's favor. Although the final order in this case was the trial court's order granting summary disposition in favor of defendant, the parties agree that the grant of summary disposition was appropriate if the trial court also properly denied plaintiff's motion to amend her complaint and add parties. Hence, on appeal, we must determine whether the trial court properly denied plaintiff's motion to amend.

This Court reviews for an abuse of discretion a trial court's denial of a motion to amend a complaint. *Tierney v University of Michigan Regents*, 257 Mich App 681, 687; 669 NW2d 575 (2003). Although a trial court should freely grant leave to amend, MCR 2.118(A)(2), leave to amend should be denied where amendment would be futile. *Miller v Chapman Contracting*, 477 Mich 102, 106; 730 NW2d 462 (2007).

The circuit court did not abuse its discretion when it denied plaintiff's motion to amend, because amendment would have been futile. There is no record evidence that defendant, which merely purchased the property at issue, violated plaintiff's due process rights or otherwise engaged in actionable conduct. And there is also no record evidence that the mortgage was illegally obtained or that the foreclosure was improper. Although the circumstances of this case are indeed sad, plaintiff failed to contest the mortgage or foreclosure and apparently made no attempt to redeem the property. Under these facts, the trial court properly denied plaintiff's motion for leave to amend.

Affirmed.

/s/ Stephen L. Borrello

/s/ William B. Murphy

/s/ Michael J. Kelly