

STATE OF MICHIGAN  
COURT OF APPEALS

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DAVID A. REAMS,

Plaintiff-Appellee,

v

SAXON MORTGAGE SERVICES, INC.,

Defendant-Appellant.

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UNPUBLISHED

May 11, 2010

No. 289617

Oakland Circuit Court

LC No. 08-096103-CH

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

PER CURIAM.

Plaintiff appeals as of right the order granting defendant's motions to set aside orders dismissing a foreclosure sale, invalidating a quitclaim deed and for the imposition of sanctions. We affirm.

On appeal, plaintiff primarily contends that the trial court erred in determining that the motions he filed and the subsequent service of process of the documents on defendant violated the Michigan Rules of Court. A trial court's factual findings are reviewed for clear error, while its discretionary decisions are reviewed for an abuse of discretion. *Herald Co v Eastern Michigan Univ Bd of Regents*, 475 Mich 463, 471-472; 719 NW2d 19 (2006). "A finding is clearly erroneous if, after a review of the entire record, the reviewing court is left with the definite and firm conviction that a mistake was made." *Berger v Berger*, 277 Mich App 700, 717; 747 NW2d 336 (2008). "Decisions concerning the meaning and scope of pleadings fall within the sound discretion of the trial court." *Lockridge v Oakwood Hosp*, 285 Mich App 678, 692; 777 NW2d 511 (2009) (citation omitted). An abuse of discretion occurs only when the court's "decision results in an outcome falling outside of the principled range of outcomes." *Id.* (citation omitted).

In order to initiate a lawsuit a party must file a complaint. MCR 2.101(B). A complaint, consistent with pleading requirements, must contain a statement of facts and "[a] demand for judgment for the relief that the pleader seeks." MCR 2.111(B)(1), (2). Specifically, "[t]he complaint must contain '[a] statement of the facts, without repetition, on which the pleader relies in stating the cause of action, with the specific allegations necessary reasonably to inform the adverse party of the nature of the claims the adverse party is called on to defend[.]'" *Woods v SLB Prop Mgt, LLC*, 277 Mich App 622, 627; 750 NW2d 228 (2008), citing MCR 2.111(B)(1). "Each allegation of a pleading must be 'clear, concise, and direct.'" *Id.*, quoting MCR 2.111(A)(1).

First and foremost, plaintiff's filings with the trial court did not comport with the Michigan Rules of Court because he filed a motion without having first submitted a complaint to initiate a cause of action pursuant to MCR 2.101(B). Further, the document filed by plaintiff did not meet the pleading requirements imposed by MCR 2.111(B) because it lacked a sufficient statement of facts. The only information provided in plaintiff's initial motion was the address of the property and the date of the foreclosure sale, along with a copy of the quit claim deed. Even if we were to treat plaintiff's motion as a complaint, conspicuously absent from the motion is any information pertaining to the amount owed by plaintiff for the property, the value of the subject property or the date and manner of default. As such, the document failed to adequately inform defendant of the nature and extent of plaintiff's claims. Because plaintiff's claims were inadequately pleaded, they were properly dismissed.

In addition, plaintiff contends that defendant's answer to his motion, which suggests that plaintiff did comply with the Michigan Rules of Court, constitutes an admission pursuant to MCR 2.111(E)(1) precluding dismissal of his claims. Defendant asserts that the wording of its answer comprised a typographical or clerical error, which is obvious when read in conjunction with the accompanying brief. We find plaintiff's argument to be unavailing as it fails to recognize that his motion did not constitute a pleading as that term is defined in MCR 2.110 and, therefore, was not subject to MCR 2.111(E)(1). Whether the documents filed by plaintiff constitute a "pleading" was a question of law for the trial court's determination. Although parties are bound by the factual statements in their pleadings, MCR 2.111(C) is not applicable to statements by parties regarding questions of law. *Atkinson v City of Detroit*, 222 Mich App 7, 11-12; 564 NW2d 473 (1997).

Further, dismissal of this action was correct based on the failure to properly effectuate service of process on defendant. MCR 2.102(E)(1). Defendant, as a corporation, was required to be served in accordance with MCR 2.105(D). Plaintiff erred by serving all documents, including the initial filing, on defendant's attorney, contrary to MCR 2.107(B)(1)(a). Before defendant had an opportunity to respond to plaintiff's motions, the trial court entered orders granting the dismissal of the foreclosure sales. When made aware of the errors and omissions in pleading and service of process, the trial court correctly set aside its previous orders.

Plaintiff also argues that the trial court erred in determining that the deed quit claiming his interest to the property was invalid. We find that this claim has been abandoned because plaintiff provides no explanation or justification to support his assertions on this issue. An appellant may not merely "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." *Mudge v Macomb Co*, 458 Mich 87, 105; 580 NW2d 845 (1998).

Finally, plaintiff contends that the trial court erred in the imposition of sanctions. "We review for clear error the trial court's determination whether to impose sanctions under MCR 2.114. A decision is clearly erroneous when, although there may be evidence to support it, we are left with a definite and firm conviction that a mistake has been made." *Guerrero v Smith*; 280 Mich App 647, 677; 761 NW2d 723 (2008) (citation omitted). "The filing of a signed document that is not well grounded in fact or law subjects the filer to sanctions pursuant to MCR 2.114(E)." *Id.* at 678. In addition, "MCR 2.114(E) states that the trial court 'shall' impose sanctions upon finding that a document has been signed in violation of the rule. Therefore, if a

violation of MCR 2.114(D) has occurred, the sanctions provided for by MCR 2.114(E) are mandatory.” *Id.*

It cannot reasonably be disputed that the documents plaintiff filed with the trial court were woefully inadequate and failed to comply with the Michigan Rules of Court. Plaintiff did not initiate proceedings by the filing of a formal complaint or even a document, which contained the minimal requirements to qualify as a complaint. Further, plaintiff failed to properly effectuate service of process. Because the documents filed by plaintiff were in violation of the relevant court rules, the trial court’s imposition of sanctions against plaintiff was mandatory.

Affirmed.

/s/ Michael J. Talbot  
/s/ E. Thomas Fitzgerald  
/s/ Michael J. Kelly