

STATE OF MICHIGAN
COURT OF APPEALS

JULEE FURLONG,

Plaintiff-Appellant,

V

BANK OF AMERICA, N. A.,

Defendant-Appellee.

UNPUBLISHED
December 11, 2012

No. 307401
Ingham Circuit Court
LC No. 11-000320-CH

Before: O'CONNELL, P.J., and CAVANAGH and DONOFRIO, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's order granting defendant's motion for summary disposition and denying plaintiff's request to amend her complaint in this foreclosure action. Because amendment of plaintiff's complaint would have been futile given that she lacked standing to assert her proposed claims, we affirm.

Defendant, the mortgage holder on plaintiff's real property, initiated foreclosure proceedings in February 2010. According to defendant, it sent plaintiff notice of her default and her rights under Michigan's foreclosure by advertisement statute as required by MCL 600.3205a. When plaintiff failed to request a meeting to attempt to arrange a loan modification, defendant proceeded with the foreclosure. Defendant purchased the property at a foreclosure sale on September 23, 2010. Plaintiff had until March 23, 2011, to redeem the property.

On March 16, 2011, seven days before the expiration of the redemption period, plaintiff filed a complaint for declaratory and injunctive relief asserting deficiencies in the foreclosure proceedings in violation of Michigan's foreclosure relief statutes. Plaintiff's complaint alleged that defendant failed to provide her with the notice required under MCL 600.3205a and that defendant failed to properly review her loan for a modification pursuant to MCL 600.3205c. In support of her complaint, plaintiff submitted an affidavit averring that she never received the requisite notice.

Defendant filed a motion for summary disposition arguing that plaintiff's claim that she did not receive the notice was false. Defendant asserted that plaintiff received the notice as evidenced by a certified mail delivery record showing that plaintiff signed for the notice. In response to defendant's motion, plaintiff argued that her former attorney's lack of foreclosure experience and her misunderstanding of the affidavit that she signed led to the filing of her complaint. Plaintiff admitted that she received the requisite notice and that, as such, her claim

could not be supported. She requested leave to amend her complaint to allege several new claims regarding purported deficiencies in the foreclosure process.

The trial court granted defendant's motion for summary disposition and denied plaintiff's request to amend her complaint. The court expressed concern that it had previously granted relief in plaintiff's favor on the basis of her fraudulent affidavit and that plaintiff had lied to the court. Thereafter, plaintiff filed a motion for reconsideration and to amend her complaint, which the trial court denied.

Plaintiff argues that the trial court erred by denying her request to amend her complaint and by failing to state its reasons for the denial. We review for an abuse of discretion a trial court's decision on a motion to amend a complaint. *Titan Ins Co v North Pointe Ins Co*, 270 Mich App 339, 346; 715 NW2d 324 (2006). Leave to amend is properly denied if the amendment sought would be futile. *Weymers v Khera*, 454 Mich 639, 658; 563 NW2d 647 (1997).

Here, plaintiff's proposed amendment of her complaint would have been futile. Plaintiff lost all right, title, and interest in the property when she failed to redeem the property by the expiration of the redemption period on March 23, 2011. See *Piotrowski v State Land Office Bd*, 302 Mich 179, 187; 4 NW2d 514 (1942); see also MCL 600.3236. Although plaintiff filed her complaint before the redemption period expired, the filing of her complaint did not toll the redemption period. See *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.") Further, although the trial court entered a temporary restraining order and a preliminary injunction "suspending" the running of the redemption period, the suspension expired 60 days after the trial court entered the preliminary injunction on April 4, 2011. Thus, on September 6, 2011, when plaintiff filed her response to defendant's motion for summary disposition requesting to amend her complaint, she had no right, title, or interest in the property. Because plaintiff had no interest in the property, she lacked standing to assert the claims in her proposed amended complaint. See *MOSES, Inc v Southeast Mich Council of Gov'ts*, 270 Mich App 401, 414; 716 NW2d 278 (2006) (Standing requires that a plaintiff have a "real interest in the cause of action, or a legal or equitable right, title, or interest in the subject matter of the controversy.") (Quotation marks and citations omitted.) Accordingly, amendment of the complaint would have been futile. Further, although the trial court did not deny plaintiff's request to amend her complaint on the basis of standing, we will not reverse when the trial court reaches the correct result for the wrong reason. *Coates v Bastian Bros, Inc*, 276 Mich App 498, 508-509; 741 NW2d 539 (2007). Finally, given our determination that amendment of the complaint would have been futile, we need not address

plaintiff's argument that the trial court erred by failing to state its reasons for denying plaintiff's request to amend.

Affirmed. Defendant, being the prevailing party, may tax costs pursuant to MCR 7.219.

/s/ Peter D. O'Connell

/s/ Mark J. Cavanagh

/s/ Pat M. Donofrio