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**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-0646**

Value Properties, LLC,
Respondent,

vs.

Mable Dunbar, et al.,
Defendants,

Edgarline Dunbar,
Appellant.

**Filed November 26, 2012
Affirmed
Bjorkman, Judge**

Wright County District Court
File No. 86-CV-12-364

Travis M. Ohly, Ohly Law Office, Rochester, Minnesota (for respondent)

William B. Butler, Jeramie Steinert, Butler Liberty Law, LLC, Minneapolis, Minnesota
(for appellant)

Considered and decided by Bjorkman, Presiding Judge; Kalitowski, Judge; and
Crippen, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

BJORKMAN, Judge

Appellant challenges summary judgment in an eviction proceeding, arguing that the district court (1) lacked authority to order summary judgment, (2) erred by granting summary judgment for respondent, (3) abused its discretion by not compelling discovery, and (4) abused its discretion by not staying the action pending resolution of a related quiet-title suit. We affirm.

FACTS

In 2005, appellant Edgarline Dunbar executed a mortgage in favor of Option One Mortgage Corporation. Option One assigned the mortgage to respondent Wells Fargo Bank N.A. on July 13, 2010. Dunbar subsequently defaulted on the mortgage, and Wells Fargo foreclosed by advertisement. On June 7, 2011, Wells Fargo purchased the property and received a sheriff's certificate of sale. Dunbar did not redeem the property within the six-month redemption period. But she initiated a quiet-title action in federal court challenging the validity of the foreclosure.

On January 20, 2012, Value Properties¹ commenced this eviction action. Dunbar served discovery requests and moved to stay the proceeding pending resolution of her quiet-title action. On February 10, the parties made their initial appearance in this case; Value Properties moved for summary judgment and stated it would not respond to Dunbar's discovery requests. The district court directed Dunbar to respond to the motion

¹ Following the foreclosure and sale, Value Properties LLC purchased the property from Wells Fargo and substituted itself as respondent. Accordingly, we refer to respondent as Value Properties.

by February 21. The district court subsequently granted summary judgment in favor of Value Properties. This appeal follows.

D E C I S I O N

I. The district court had the authority to grant summary judgment.

This court reviews the interpretation and application of procedural rules de novo. *Eclipse Architectural Grp., Inc. v. Lam*, 814 N.W.2d 692, 696 (Minn. 2012). We do not read procedural rules in isolation but “in light of one another, interpreting them according to their purpose.” *Mingen v. Mingen*, 679 N.W.2d 724, 727 (Minn. 2004).

Dunbar argues that the district court lacked authority to grant summary judgment because Value Properties did not comply with the timing requirements of Minn. R. Civ. P. 56.01.² Eviction actions are summary court proceedings designed to resolve occupancy disputes expeditiously. Minn. Stat. § 504B.001, subd. 4 (2010). The rules of civil procedure apply to eviction actions except when they conflict with the eviction statute. *See* Minn. Stat. § 504B.335(c) (2010) (stating proceedings in eviction actions are the same as other civil suits, except as provided in Minn. Stat. §§ 504B.281-.371 (2010)). Accordingly, we first consider whether rule 56.01 conflicts with the eviction statute.

² Dunbar also contends the motion violated Minn. R. Civ. P. 56.03 and Minn. R. Gen. Pract. 115.03. We disagree. Value Properties served the motion 11 days before Dunbar’s response was due. *See* Minn. R. Civ. P. 56.03 (requiring a summary-judgment motion be served no less than ten days before its hearing date); Minn. R. Gen. Pract. 115.01(b) (allowing the district court to modify Minn. R. Gen. Pract. 115’s timelines so long as it complies with Minn. R. Civ. P. 56.03).

Rule 56.01 requires a plaintiff to wait 20 days after serving the summons to move for summary judgment. In contrast, the eviction statute requires the district court to decide the action at the initial appearance, which must be held 7 to 14 days after the service of summons. Minn. Stat. §§ 504B.321, subd. 1(d), .335(a). The district court may only continue an eviction trial for six days unless the parties agree otherwise. Minn. Stat. § 504B.341(a). Because rule 56.01's 20-day waiting period conflicts with the eviction statute, that aspect of the rule does not limit a district court's authority to summarily determine an eviction claim.

We next consider whether summary disposition was otherwise improper. The district court has inherent authority to grant summary judgment sua sponte when there is no genuine issue of material fact and a party is entitled to judgment as a matter of law. *See Del Hayes & Sons, Inc. v. Mitchell*, 304 Minn. 275, 280, 230 N.W.2d 588, 591-92 (1975). We will not disturb a grant of summary judgment based on claimed notice or procedural irregularities unless a party demonstrates that it suffered prejudice because it did not have a meaningful opportunity to oppose summary judgment. *Fed. Land Bank of St. Paul v. Obermoller*, 429 N.W.2d 251, 255 (Minn. App. 1988), *review denied* (Minn. Oct. 26, 1988). Here, we discern no prejudice to Dunbar occasioned by the timing of Value Properties' dispositive motion. Dunbar had 11 days to respond to the motion. This complies with the ten-day notice requirement of rule 56.03 and is sufficient in light of the narrow scope of eviction actions. And Dunbar was not prejudiced by her inability to obtain discovery responses; as discussed below, her requests sought information about

matters that are outside the scope of and irrelevant to this proceeding. On this record, we conclude that the district court was authorized to grant summary judgment.

II. Value Properties is entitled to summary judgment on its eviction claim.

On appeal from summary judgment, we review de novo whether there are genuine issues of material fact and whether the district court erred in applying the law. *Dahlin v. Kroening*, 796 N.W.2d 503, 504 (Minn. 2011).

A person entitled to real property may recover possession by eviction when a person holds over the property after the expiration of the redemption period on foreclosure of a mortgage. Minn. Stat. § 504B.285, subd. 1(1)(ii). To prevail on an eviction claim, a plaintiff must prove (1) the mortgage was foreclosed, (2) the time for redemption expired, (3) the defendant is holding over the property, and (4) the plaintiff is entitled to the premises. *See id.* A sheriff’s certificate of sale is “prima facie evidence that all the requirements of law in that behalf have been complied with, and prima face evidence of title in fee thereunder in the purchaser at such sale . . . after the time for redemption therefrom has expired.” Minn. Stat. § 580.19 (2010).

In support of its summary-judgment motion, Value Properties submitted a copy of Dunbar’s mortgage; the recorded assignment of the mortgage to Value Properties’ predecessor-in-interest, Wells Fargo; and the sheriff’s certificate of sale. These documents show Value Properties foreclosed Dunbar’s mortgage by advertisement, the six-month redemption period expired, and Value Properties is entitled to the premises. Dunbar does not dispute these facts and admits that she is holding over the property. On this record, Value Properties established all of the statutory elements of its eviction claim.

Dunbar argues that Value Properties is not entitled to evict her because the foreclosure-by-advertisement was ineffective due to prior unrecorded assignments of the mortgage. *See* Minn. Stat. § 580.02(3) (2010) (requiring all assignments of the mortgage be recorded to foreclose by advertisement). We are not persuaded. First, Dunbar’s argument presents an issue that is outside the narrow scope of an eviction action. *See Dahlberg v. Young*, 231 Minn. 60, 68, 42 N.W.2d 570, 576 (1950) (“An unlawful detainer action merely determines the right to present possession and does not adjudicate the ultimate legal or equitable rights of ownership possessed by the parties.”). Counterclaims and defenses attacking title or the foreclosure cannot be brought in an eviction action unless there is no alternative forum available to litigate those claims. *Fraser v. Fraser*, 642 N.W.2d 34, 40-41 (Minn. App. 2002); *AMRESKO Residential Mortg. Corp. v. Stange*, 631 N.W.2d 444, 445-46 (Minn. App. 2001). Because Dunbar had an alternative forum to challenge the foreclosure and actually did so in federal court,³ she cannot challenge the foreclosure in this action.

Second, Dunbar has not demonstrated that genuine fact issues preclude summary judgment. In opposing summary judgment, Dunbar submitted a purported agreement to assign the mortgage from Option One Mortgage Corporation to Option One Mortgage Acceptance Corporation, but she did not present any evidence that the assignment actually occurred. Rather, the only recorded mortgage assignment is from Option One Mortgage Corporation to Wells Fargo. Dunbar merely speculates that unrecorded assignments exist, which does not create a genuine issue of material fact. *See Nicollet*

³ *See Dunbar v. Wells Fargo Bank, N.A.*, 853 F. Supp. 2d 839, 846-48 (D. Minn. 2012).

Restoration, Inc. v. City of St. Paul, 533 N.W.2d 845, 848 (Minn. 1995) (holding speculation and general assertions are insufficient to create a genuine issue of material fact). Because there are no genuine issues of material fact and Value Properties demonstrated that it is entitled to evict Dunbar from the property as a matter of law, summary judgment is proper.

III. The district court did not abuse its discretion by declining to compel Value Properties to respond to discovery.

Parties may obtain discovery regarding matters relevant to a claim or defense. Minn. R. Civ. P. 26.02(a). Information sought through discovery is relevant if it “appears reasonably calculated to lead to the discovery of admissible evidence.” *Id.* The district court has wide discretion to order discovery; and absent clear abuse of discretion, discovery orders will not be disturbed. *Underdahl v. Comm’r of Pub. Safety (In re Comm’r of Pub. Safety)*, 735 N.W.2d 706, 711 (Minn. 2007).

Dunbar’s discovery requests seek information regarding the securitization of the mortgage, the pooling and servicing agreement, and the existence of unrecorded mortgage assignments. None of this information is germane to the narrow issues presented in an eviction action. Because the information sought in the requests is irrelevant, the district court did not abuse its discretion by denying Dunbar’s request to compel discovery.

IV. The district court did not abuse its discretion by denying Dunbar’s motion to stay the eviction proceeding.

We review a district court’s denial of a stay for abuse of discretion. *Bjorklund v. Bjorklund Trucking, Inc.*, 753 N.W.2d 312, 317 (Minn. App. 2008), *review denied* (Minn.

Sept. 23, 2008). A district court abuses its discretion when it declines to stay an eviction action when there is a pending civil claim involving counterclaims and defenses necessary to a fair determination of the action. *Id.* at 318-19. But “[a] party is not entitled to a stay of an eviction proceeding merely because a related action is pending.” *Fed. Home Loan Mortg. Corp. v. Nedashkovskiy*, 801 N.W.2d 190, 193 (Minn. App. 2011). Rather, a party must show a case-specific reason why denying the stay compromises his or her interests. *Id.* Even if such a showing is made, the district court has discretion to deny the stay. *Id.*

Dunbar argues that resolution of her quiet-title action is necessary to a fair determination of the eviction action because if she prevails on her quiet-title claim, the foreclosure will be invalid, and the eviction action will fail. We are not persuaded. Dunbar provided little information to the district court concerning the quiet-title action; she did not attach the complaint to the motion or describe the grounds for the quiet-title challenge. The district court therefore had no basis to determine whether the pending action had merit or was necessary to a fair determination of the eviction. Without a demonstrated case-specific ground for staying this action, Dunbar has not shown that the district court abused its discretion.

Dunbar also asserts the denial of the stay compromises her interests in her quiet-title action, contending she must remain in possession of the property to maintain a quiet-title claim. We disagree. A plaintiff “may maintain an equitable action to remove a cloud [on title] though he is not in possession.” *Union Cent. Life Ins. Co. v. Page*, 190 Minn. 360, 367, 251 N.W. 911, 914 (1933). Accordingly, Dunbar’s interests in her quiet-

title action are not compromised, and the district court did not abuse its discretion by resolving the eviction action through summary judgment.

Affirmed.