

IN THE COURT OF APPEALS OF IOWA

No. 8-452 / 07-1577
Filed October 29, 2008

**TRISTAN FRANK d/b/a
606 WATROUS, L.L.C.,**
Plaintiff-Appellant,

vs.

**S & G REAL ESTATE INVESTMENTS,
INC., CAPITAL ONE BANK, CITY OF
DES MOINES, and ARLENE EDDINS,**
Defendants-Appellees.

Appeal from the Iowa District Court for Polk County, Michael J. Huppert,
Judge.

Plaintiff appeals from summary judgment ruling wherein the district court
concluded plaintiff had no standing to seek redemption from tax sale.

AFFIRMED.

Michael D. Ensley of Hanson, Bjork & Russell, L.L.P., Des Moines, for
appellant.

Brett T. Osborn of Wetsch & Abbott, P.L.C., Des Moines, for appellee S &
G Real Estate Investments.

Angela Althoff, Des Moines, for appellee City of Des Moines.

Charles Litow, Cedar Rapids, for appellee Capital One Bank.

Arlene Eddins, Miami, Oklahoma, pro se.

Heard by Huitink, P.J., and Vaitheswaran and Potterfield, JJ.

HUITINK, P.J.

Tristan Frank, d/b/a 606 Watrous, L.L.C., (Frank) appeals from a district court ruling granting summary judgment in favor of S & G Real Estate Investments, Inc., in which the court concluded Frank had no standing to bring this action. We affirm.

Our review of a district court order granting summary judgment is for correction of errors at law. *Pillsbury Co. v. Wells Dairy, Inc.*, 752 N.W.2d 430, 434 (Iowa 2008). Summary judgment is appropriate only when the record shows there is no genuine issue of material fact and the moving party is entitled to a judgment as a matter of law. Iowa R. Civ. P. 1.981. Our review is limited to whether a genuine issue of material fact exists and whether the district court correctly applied the law. *Pillsbury Co.*, 752 N.W.2d at 434.

In order to invoke a court's jurisdiction, a plaintiff must demonstrate a personal stake in the outcome of the lawsuit and must show he or she has sustained some direct injury to a legally protected right. *See id.* The district court ruled Frank had not established standing to bring this redemption action.

Frank filed an action pursuant to Iowa Code section 447.8 (2005) claiming a right to seek redemption from tax sale following the issuance of a tax deed. Section 447.8 provides in part,

After the delivery of the treasurer's deed, a *person entitled to redeem* a parcel sold at tax sale shall do so by an equitable action in a court of record, in which all persons claiming an interest in the parcel derived from the tax sale, as shown by the record, shall be made defendants, and the court shall determine the rights, claims, and interests of the several parties

(Emphasis added.) Frank asserts an interest in the 606 Watrous Avenue property and the right to redeem by virtue of an assignment from Green Tree Financial Servicing, L.L.C.

The property at issue here is locally known as 606 Watrous Avenue. On November 24, 1998, Arlene Eddins entered into a mortgage on the property with Green Tree Financial Servicing Corporation (address 6903 Vista Dr., West Des Moines, Iowa).

On June 20, 2005, the property was sold by the Polk County Treasurer for delinquent and unpaid taxes. The purchaser was Oak Park Investments Partnership LXV. Oak Park Investments Partnership LXV assigned the tax sale certificate to the City of Des Moines under Iowa Code section 446.19A (concerning abandoned property sold at tax sale).

On February 21, 2006, an affidavit of service of notice pursuant to section 447.12 was filed. Attached to the affidavit was a "Notice to Redeem From Tax Sale" and returns of service indicating mailing by certified mail to Arlene J. Eddins a/k/a Arlene Jay Williams, Green Tree Financial Servicing Corporation, Capital One Bank and City of Des Moines.

On May 24, 2006, a tax deed for the property was filed with the county recorder. On June 14, 2006, pursuant to Iowa Code section 448.15, an affidavit was filed giving all persons claiming interest in the property 120 days to file a claim with the recorder.

On October 11, 2006, the secretary of state received articles of organization for "606 Watrous, L.L.C." signed by Tristan Frank "Organizer of 606 Watrous, L.L.C."

On October 12, 2006, Tristan Frank, d/b/a 606 Watrous, L.L.C., filed a claim of interest in the property with the recorder alleging an assignment of mortgage from Green Tree Servicing L.L.C.

On October 18, 2006, a document entitled “Real Estate Mortgage/Deed of Trust” was filed in the recorder’s office, containing the following language:

For value received, Green Tree Servicing L.L.C. or its Affiliates having offices at 7360 South Kyrene Road, Tempe, Arizona 85283, (“Assignor”), hereby assigns to 606 Watrous Ave., L.L.C., its successors and assigns, all right, title and interest it has in and to a certain Mortgage/Deed of Trust dated the 24th day of November, 1998, made by Arlene Eddins, as mortgagor to Green Tree Financial Servicing Corp, as mortgagee, as filed in the offices of the County Recorder . . . on the 25th day of November, 1998

Frank asserts this document establishes the right to redeem the property.

We acknowledge an effective assignment transfers the entire rights under a contract from the assignor to the assignee so that the assignee assumes the benefits of the contract as well the rights and remedies. *Ross v. First Sav. Bank*, 675 N.W.2d 812, 817 (Iowa 2004). The noted assignment gives to Frank “all right title and interest” Green Tree Servicing L.L.C. has in the Eddins mortgage. However, there is nothing in the record to show Green Tree Servicing L.L.C. has any right whatsoever in the Eddins mortgage. The assignment itself names “Green Tree Financial Servicing Corp, as mortgagee.” Nothing in the record establishes any connection between Green Tree Financial Servicing *Corporation* and Green Tree Servicing *L.L.C.*

The district court found, and we agree, that the summary judgment record does not establish an effective assignment from any party with a personal stake in the property. We agree with the district court:

there has been nothing placed in this record that would allow this court to conclude, as either a matter of fact [or] law, that there is some relationship or continuity between Green Tree Financial Servicing Corporation and Green Tree Servicing, L.L.C.

Because Frank has failed to generate a factual issue as to whether the entity through which Frank claims assignment had an interest in the property, Frank has not demonstrated a personal stake in the outcome of the lawsuit. The district court did not err in finding Frank had no standing to bring the suit. Summary judgment was appropriately entered for S & G Real Estate. We affirm.

AFFIRMED.