

STATE OF MICHIGAN  
COURT OF APPEALS

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MICHIGAN NATIONAL BANK, formerly known as  
MICHIGAN NATIONAL BANK OF DETROIT,

UNPUBLISHED  
June 9, 1998

Plaintiff-Appellee,

v

No. 202113  
Wayne Circuit Court  
LC No. 96-638418-NZ

MARTIN M. YOUNCE,

Defendant-Appellant.

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Before: Sawyer, P.J., and Kelly and Smolenski, JJ.

PER CURIAM.

Defendant, Martin M. Younce, appeals as of right from an order granting plaintiff, Michigan National Bank f/k/a Michigan National Bank of Detroit's motion for summary disposition pursuant to MCR 2.116(C)(10). We affirm.

On August 27, 1996, plaintiff filed a complaint against defendant for renewal of judgment pursuant to MCL 600.5809; MSA 27A.5809, to renew a judgment awarded to Michigan National Bank of Detroit on May 1, 1987, in the amount of \$140,000. The judgment, entered by Wayne Circuit Court Judge Roland L. Olzark, stated that defendant, Richard P. Dietrich, and World of Ruttman, Inc., d/b/a Motorcity Honda, were jointly and severally liable to Michigan National Bank of Detroit.

Defendant first argues on appeal that plaintiff was not a party to the 1987 judgment, and therefore cannot renew the judgment. We disagree. This Court reviews a trial court's order granting summary disposition de novo to determine whether the moving party was entitled to judgment as a matter of law. *First Security v Aitken*, 226 Mich App 291, 304; 573 NW2d 307 (1997).

To satisfy its burden for a motion for summary disposition, the moving party must specifically identify the issues on which there are no disputed facts, and support its position with affidavits, depositions, or other documentary evidence. *Munson Medical Ctr v Auto Club Ins Ass'n*, 218 Mich App 375, 386; 554 NW2d 49 (1996). The party opposing the motion then bears the burden of showing by evidentiary materials that a dispute exists regarding a genuine issue of material fact. *Munson*, *supra*.

During the hearing on plaintiff's motion for summary disposition, plaintiff presented an affidavit to the trial court. The affidavit was given by Bruce Lenz, one of plaintiff's officers. Lenz stated that he was familiar with the merger of Michigan National Bank of Detroit into plaintiff. Lenz also stated that pursuant to the merger agreement, plaintiff was the successor in interest to all of Michigan National Bank of Detroit's liabilities and assets including the judgment at issue in this matter, and that the judgment had not been assigned or transferred to any third parties. Once plaintiff put forth this affidavit, the burden was then on defendant to show by evidentiary materials that a dispute existed regarding the issue of whether plaintiff was the successor in interest to Michigan National Bank of Detroit's liabilities and assets. *Munson, supra*, 218 Mich App 386. Defendant put forth no evidentiary materials regarding this issue. Therefore, the trial court properly granted plaintiff's motion for summary disposition.

Defendant's other issue on appeal is that plaintiff failed to join necessary parties to the action. We disagree. This Court reviews a trial court's order granting summary disposition de novo to determine whether the moving party was entitled to judgment as a matter of law. *First Security, supra*, 226 Mich App 304.

The courts of this state have held that when an award is joint and several, a plaintiff may pursue the defendants in separate actions. A plaintiff is permitted to pursue defendants jointly or severally at his election, but may recover only one satisfaction. See generally *Grand Blanc Cement v INA*, 225 Mich App 138, 150-151; 571 NW2d 221 (1997); *Kaminski v Newton*, 176 Mich App 326, 328; 438 NW2d 915 (1989). In the underlying action, plaintiff's judgment was awarded jointly and severally. In the present action, plaintiffs have elected to renew the judgment against only defendant. As the judgment plaintiff wishes to renew calls for a joint and several award, we hold that plaintiff is entitled to renew the judgment against any of the parties it chooses. Therefore, the trial court did not err in granting plaintiff's motion for summary disposition.

Affirmed.

/s/ David H. Sawyer

/s/ Michael J. Kelly

/s/ Michael R. Smolenski