

STATE OF MICHIGAN
COURT OF APPEALS

THT, LLC, MICHIGAN LIMITED LIABILITY
COMPANY,

UNPUBLISHED
February 12, 2002

Plaintiff-Appellee,

v

SAMUEL CHRISTAKIS and JUDITH
CHRISTAKIS,

No. 226705
Oakland Circuit Court
LC No. 99-015008-CH

Defendants-Appellants.

Before: Sawyer, P.J., and O'Connell and Zahra, JJ.

PER CURIAM.

Defendants appeal as of right from a circuit court order granting plaintiff's motion for summary disposition in this action to quiet title. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court's ruling on a motion for summary disposition is reviewed de novo. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000). A motion brought under MCR 2.116(C)(10) tests the factual support for a claim. *Smith v Globe Life Ins Co*, 460 Mich 446, 454; 597 NW2d 28 (1999). In ruling on such a motion, the trial court must consider not only the pleadings, but also depositions, affidavits, admissions and other documentary evidence, MCR 2.116(G)(5), in the light most favorable to the nonmoving party, giving the benefit of any reasonable doubt to the nonmoving party. *Id.* Summary disposition is appropriate only if the opposing party fails to present documentary evidence establishing the existence of a material factual dispute. *Id.* at 455.

The evidence presented showed that Consolidated Capital Special Trust purchased the property at issue at a mortgage sale. It later sold the property to a third party, who sold it to a fourth party, who sold it to plaintiff. The same day the mortgage sale was held, defendants executed a quitclaim deed to the property in favor of United Western Realty to hold in escrow. That deed stated that it had no effect on Consolidated's mortgage. Consolidated did not take title from United Western; it took title from a sheriff's deed issued at the mortgage sale. Because the recorded instruments, including defendants' quitclaim deed to United Western and the chain of transfers beginning with the sheriff's deed to Consolidated, showed that defendants had no interest in the property and the settlement agreement, through which they claimed a continuing interest, does not appear to have been recorded, plaintiff, who bought the property without notice

of defendants' interest, was a bona fide or good faith purchaser, *Michigan Nat'l Bank & Trust Co v Morren*, 194 Mich App 407, 410; 487 NW2d 784 (1992), and thus has superior title. See, e.g., *Christensen v Christensen*, 126 Mich App 640, 646; 337 NW2d 611 (1983).

The existence of the settlement agreement did not void the sheriff's deed as a matter of law, although it could have that effect if the parties so intended. *Audretsch v Hurst*, 126 Mich 301, 303; 85 NW 746 (1901). Because defendants failed to present a complete copy of the settlement agreement to show that the agreement, by its terms, was intended to supersede the mortgage sale, they failed to establish the existence of a genuine issue of fact regarding the validity of Consolidated's title, through which plaintiff obtained its interest in the property. Therefore, the trial court did not err in granting plaintiff's motion.

Affirmed.

/s/ David H. Sawyer
/s/ Peter D. O'Connell
/s/ Brian K. Zahra