STATE OF MICHIGAN

COURT OF APPEALS

OTTACO, INC.,

Plaintiff/Counterdefendant-Appellee,

v

EVEANN PROPERTIES, INC.,

Defendant/Counterplaintiff/Third-Party Plaintiff-Appellant.

and

FIDELITY NATIONAL TITLE INSURANCE COMPANY,

Third-Party Defendant.

UNPUBLISHED
July 19, 2002

No. 228487
Wayne Circuit Court
LC No. 99-910642-CH

Before: Holbrook, Jr., P.J., and Jansen and Wilder, JJ.

PER CURIAM.

Plaintiff and defendant independently purchased a vacant parcel of real property in Wayne County through the 1990 and 1991 tax sales, respectively, and each had obtained court orders to quiet title in their favor. Plaintiff brought the instant lawsuit to redeem the property from defendant's 1991 tax sale purchase. Defendant appeals as of right. We affirm

I

This case involves title to a vacant parcel of real property located in the city of Taylor on Telegraph Road. The primary issue in this appeal is whether the parties properly notified the persons enumerated in the General Property Tax Act ("GPTA"), MCL 211.140 *et seq*.

On June 24, 1975, Lawrence Landrith and Elizabeth Landrith ("the Landriths") entered into a land contract to sell the property in fee simple to John Armelagos. The ten-year land contract was recorded with the Wayne County Register of Deeds on July 1, 1975. On June 24, 1985, the land contract was completed, but a deed conveying the property to Armelagos as a result of the land contract was never recorded.

On June 1, 1988, pursuant to MCL 211.67a, the state treasurer deeded the property to the state of Michigan when the property was sold and bid in to the state at the 1987 tax sale, and the deed was recorded on December 9, 1988. On November 29, 1988, the Department of Natural Resources reconveyed the property to Armelagos in a deed pursuant to MCL 211.131e. However, the 1990 and 1991 taxes on the property were not paid. On July 13, 1994, Equivest Financial, plaintiff's predecessor in interest, purchased the property at a tax sale for the unpaid 1990 taxes. Plaintiff later acquired Equivest Financial's interest in the property pursuant to a quitclaim deed on November 14, 1995. On August 7, 1995, defendant purchased the property at a tax sale for the unpaid 1991 taxes.

On June 14, 1996, defendant obtained a court order of quieting the tax deed title in it against only Armelagos. Two years later, on November 20, 1998, plaintiff obtained a court order against both the Landriths and Armelagos, quieting title in plaintiff.

In the instant case, plaintiff relied on MCL 211.140(1)(a) and (c) in support of its claim that, because defendant failed to notify the Landriths, the last grantees in the regular chain of title, the Landriths' redemption right in defendant's 1991 tax sale deed did not extinguish, even though a default judgment quieting title in defendant was entered on June 14, 1996. Plaintiff argued that, because the Landriths' title had since been quieted in plaintiff, plaintiff had the right to redeem the property from defendant. Defendant, on the other hand, claimed that the Landriths were not the last grantees in the regular chain of title. Defendant argued that the last grantee in the regular chain of title was Armelagos because Armelagos was deeded the property in fee simple absolute that vested as a new chain of title when the state possessed the property.

II

On appeal, defendant argues that the trial court erred in granting plaintiff's motion for summary disposition because there were disputed issues of fact as to whether statutory notice provisions were complied with. We disagree.

This Court reviews de novo a trial court's decision with respect to a motion for summary disposition. *Spiek v Michigan Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). A motion under MCR 2.116(C)(10) tests whether there is factual support for a claim. *Radtke v Everett*, 442 Mich 368, 374; 501 NW2d 155 (1993). A court must consider the affidavits, pleadings, depositions, admissions or any other documentary evidence submitted in a light most favorable to the nonmoving party in deciding whether a genuine issue of material fact exists. *Ritchie-Gamester v City of Berkley*, 461 Mich 73, 76; 597 NW2d 517 (1999). All reasonable inferences are resolved in the nonmoving party's favor. *Dagen v Hastings Mut Ins Co*, 166 Mich App 225, 229; 420 NW2d 111 (1987). Defendant's issue on appeal also involves interpretation of provisions of MCL 211.140, which governs the service of notice of the right to redeem property that was obtained through a tax sale, and MCL 211.67a, MCL 211.131c and MCL 211.131e, which govern the nature of the property interests that the state acquires following unsuccessful bids for tax sales. Statutory interpretation is a question of law that is reviewed de novo on appeal. *Oakland Co Bd of Co Rd Comm'rs v Michigan Property & Casualty Guaranty Ass'n*, 456 Mich 590, 610; 575 NW2d 751 (1998).

MCL 211.140(1) prescribes the procedure for service of notice of the right to redeem property that was obtained through a tax sale. Plaintiff served the Landriths and Armelagos with

property redemption notices on September 24, 1996, which was before the Legislature's amendment to the provisions in MCL 211.140(1) took effect on December 26, 1996. At the time plaintiff served notice, Section 140(1) read:

> (1) A writ of assistance or other process for the possession of land the title to which was obtained by or through a tax sale, except if title is obtained under section 131, shall not be issued until 6 months after there is filed with the county treasurer of the county where the land is situated, a return by the sheriff of that county showing service of the notice prescribed in subsection (2). The return shall indicate that the sheriff has made personal or substituted service of the notice on the following persons who were, as of the date the notice was delivered to the sheriff for service:
>
> (a) The last grantee or grantees in the regular chain of title of the property, or of an interest in the land, according to the records of the county register of deeds.
>
> (b) The person or persons in actual open possession of the land.
>
> (c) The grantee or grantees under the tax deed issued by the state treasurer for the latest year's taxes then appearing of record in the registry of deeds.
>
> (d) The mortgagee or mortgagees named in all undischarged recorded mortgages, or assignees thereof of record.
>
> (e) The holder of record of all undischarged recorded liens.

The notice provided under that section must state that a tax sale occurred and that the right to redeem the subject property extends for six months after the return of service of the notice. MCL 211.140(2). Because proceedings under the tax law have the effect of divesting the true owners of their title to property, strict compliance with statutory tax sale notice provisions is required. *Halabu v Behnke*, 213 Mich App 598, 606; 541 NW2d 285 (1995); *Andre v Fink*, 180 Mich App 403, 407-408; 447 NW2d 808 (1989).

Here, defendant served notice on Armelagos, but did not serve notice on the Landriths. On appeal, defendant claims that it was not required under MCL 211.140(1) to serve notice on the Landriths because Armelagos was the last grantee in the regular chain of title by virtue of the 1988 deed from the Department of Natural Resources to Armelagos. We disagree.

On June 1, 1988, the state treasurer deeded the property to the state pursuant to MCL 211.67a. Defendant relies on *Meltzer v State Land Officer Bd*, 301 Mich 541, 544; 3 NW2d 875 (1942), and argues that the property vested in fee simple when the state treasurer deeded the property to the state. Defendant misunderstands the analysis of the statutory redemption period afforded to the owner of a property that was bid in to the state as a result of nonpayment of taxes. While defendant is correct in asserting that a new chain of title was created in the fee simple interest acquired by the state when the property was sold, defendant overlooks the fact that the deed which the Department of Natural Resources conveyed to Armelagos was issued pursuant to MCL 211.131e. Section (1) of this statute provides, in pertinent part, that the "redemption period on property deeded to the state under section [MCL 211.67a] shall be extended until the

owners of a recorded property interest in the property shall have been notified of a hearing before the department of treasury." A review of the deed issued by the Department of Natural Resources to Armelagos shows that Armelagos obtained a redemption deed, not a tax deed, as the trial court found, or a title in fee simple, as defendant claims. See MCL 211.131c; MCL 211.131e.

MCL 211.131c(4) provides, in pertinent part, that "[a] redemption deed issued pursuant to this section shall not be construed to vest in the grantee named in the deed any title or interest in the lands beyond that which he or she would have owned, had not title become vested in the state." Because Armelagos never recorded a conveyance of the property following the completion of the ten-year 1975 land contract with the Landriths, Armelagos only had a recorded interest in the land contract. Therefore, the trial court correctly ruled that the last grantees in the regular chain of title were the Landriths. Because defendant failed to serve the Landriths with notice, defendant failed to strictly adhere to the statutory requirements of MCL 211.140(1)(a). Failure to serve proper notice tolls the running of the six-month period. *Halabu, supra* at 602. Thus, in the absence of notice from defendant, the Landriths' right of redemption regarding defendant's 1991 tax sale deed has not been extinguished.

Defendant next argues that plaintiff's notices were statutorily deficient in that defendant was entitled to notice because plaintiff, before amending its complaint and adding additional parties, knew of defendant's recorded quiet title deed against Armelagos. We disagree.

Even though plaintiff was subsequently on notice of the recording of defendant's quitclaim deed against Armelagos, a reading of Armelagos' deed, as previously discussed, showed that any interest Armelagos may have had in the property had not changed. When defendant filed suit against Armelagos, it was to quiet title in fee simple that Armelagos simply did not possess. Therefore, defendant did not acquire an interest in fee simple, and was not entitled to be provided with statutory notice.

Defendant asserts that it was also entitled to notice because it was in "actual open possession" of the property pursuant to MCL 211.140(1)(b), in that it paid the taxes and maintained the property. We do not address the issue because defendant failed to provide either the trial court or this Court with any proof to support this claim.[1] It is not enough for an appellant in his brief simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position. *Mudge v Macomb Co*, 458 Mich 87, 105; 580 NW2d 845 (1998). Thus, the trial court properly found that plaintiff's notices were statutorily sufficient, and that plaintiff had successfully obtained the entire property interests in the property that belonged to the Landriths. The trial court properly

[1] Defendant also raises the claim of slander and tortious interference. We do not address this claim. This issue is not presented in defendant's statement of questions presented. Independent issues not raised in the statement of questions presented are not properly presented for appellate review. See MCR 7.212(C)(5); *Bouverette v Westinghouse Electric Corp*, 245 Mich App 391, 404; 628 NW2d 86 (2001).

granted plaintiff's motion for summary disposition and properly denied defendant's cross-motion for summary disposition.

Affirmed.

/s/ Donald E. Holbrook, Jr.
/s/ Kathleen Jansen
/s/ Kurtis T. Wilder