STATE OF MICHIGAN

COURT OF APPEALS

KATHRYN L. JACKSY, Plaintiff/Counter-Defendant-Appellee,	UNPUBLISHED November 18, 2003
v EUGENE CHRISTIAN and WANDA CASEY, Defendants/Counter-Plaintiffs-Appellants.	No. 238974 Iosco Circuit Court LC No. 00-002575-CH

EUGENE CHRISTIAN and WANDA CASEY, Plaintiffs-Appellants,	
v G. WAYNE LEESER, also known as WAYNE LEESER, KATHRYN L. JACKSY, and DEBBIE LEESER, Defendants-Appellees.	No. 238975 Iosco Circuit Court LC No. 01-003527-CK

Before: Meter, P.J., and Saad and Schuette, JJ.

PER CURIAM.

Defendants,[1] Eugene Christian and Wanda Casey, appeal as of right from the trial court's judgment in this quiet title and ejectment action. We affirm.

Defendants contend that the trial court should not have heard this case in equity because plaintiff failed to file an appropriate motion. Under MCL 211.73a, a motion is first required for any case of law to be heard in equity. MCL 211.73a. "A suit to quiet title is one in equity and

[1] Because Christian and Casey are defendants in the first-in-time lawsuit filed by plaintiff Jacksy, we refer to them as "defendants" in this opinion.

not at law." *McKay v Palmer*, 170 Mich App 288, 293; 427 NW2d 620 (1988). This was not "a case at law" and no motion was required.[2]

Defendants argue that the trial court erred by awarding plaintiff the value of improvements and property taxes because plaintiff failed to give notice of the purchase to defendants, the owners of record, and because the trial court failed to consider the "equities of the parties."

Tax-title purchasers who make a bona fide attempt to give notice may be entitled to "reimbursement for value of improvements made and taxes paid or other expenses incurred." MCL 211.73a; see also *Richard v Ryno*, 158 Mich App 513, 517; 405 NW2d 184 (1987). Neither the statute nor the case law applying this provision of the statute defines "a bona fide attempt," but Michigan case law offers some examples. In *Richard*, this Court ruled that the plaintiff made a bona fide attempt to give notice, though the attempt failed because of a sheriff's lack of diligence in serving the notice. *Id*. Similarly, in *Stein v Hemminger*, 165 Mich App 678, 680-681; 419 NW2d 50 (1988), this Court found that a bona fide attempt was made though the sheriff incorrectly completed an affidavit of service. Black's Law Dictionary (7th ed) defines "bona fide" in relevant part as "[m]ade in good faith; without fraud or deceit."

Here, the trial court correctly attributed the error in notice procedure to the state and county agencies that listed Commerce Mortgage as the last owner of record. While plaintiff and her husband incorrectly concluded that defendants had no interest in the property, there was no evidence that they acted in bad faith or attempted to defraud or deceive anyone. For these reasons, we will not disturb the trial court's finding that plaintiff made a bona fide attempt to give the statutorily required notice.

On the basis of plaintiff's bona fide attempt to give notice, she is entitled to reimbursement for property taxes and improvements to the property. MCL 211.73a; see also *Richard, supra* at 517. In addition to the property taxes plaintiff paid, the trial court awarded plaintiff the value of her expenditures for improvements to the house. This was clearly permitted under the plain language of MCL 211.73a, which provides that she is entitled to "reimbursement for the value of improvements." See also *Richard, supra* at 517. As plaintiff notes, the parties stipulated to the value of the improvements. Furthermore, as plaintiff also correctly notes, the single case defendants cite for the proposition that plaintiff is only entitled to an amount reflecting the "resulting increased value of the property," predates the enactment of the statute and is not controlling. The trial court did not err in reimbursing plaintiff's improvement expenses.

Defendants further argue that the trial court erred by refusing to award defendants attorney fees pursuant to MCR 2.313(C). Defendants have failed to provide any factual basis to support their argument. "[I]t is not enough for an appellant in his brief simply to announce a

[2] We also note that defendants failed to object to equitable jurisdiction below, and they cannot challenge it for the first time on appeal unless this Court finds that declining review would lead to the entry of an unconscionable result. *Wallace v Harris*, 32 Mich 380, 390 (1875); *Kratze v Independent Order of Oddfellows*, 442 Mich 136, 142; 500 NW2d 115 (1993). We do not so find.

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." *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959). This issue is therefore deemed abandoned. See *Prince v McDonald*, 237 Mich App 186, 197; 602 NW2d 834 (1999).

Affirmed.

/s/ Patrick M. Meter
/s/ Henry William Saad
/s/ Bill Schuette