

STATE OF MICHIGAN
COURT OF APPEALS

BARBARA ODEN,

Plaintiff-Appellant,

v

DONNA WARREN, REAL ESTATE ASSET,
RYM-TECHNOLOGY HOLDINGS, LLC, FELIX
DANIEL, SR.,

Defendants,

and

AMERICAN HOME MORTGAGE
ACCEPTANCE, INC,

Defendant/Intervening Plaintiff-
Appellee,

and

MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.,

Defendant/Counter Plaintiff-
Appellee.

UNPUBLISHED

May 12, 2009

No. 284085

Wayne Circuit Court

LC No. 07-719586-CK

Before: Sawyer, P.J., and Murray and Stephens, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's order granting summary disposition and quieting title in favor of defendant Mortgage Electronic Registration Systems, Inc. and intervening plaintiff American Home Mortgage Acceptance, Inc. (collectively, "AHMA"). We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Plaintiff defaulted on her home's mortgage, and the mortgage was foreclosed on May 18, 2005. Unable to redeem the sheriff's deed herself, plaintiff decided to sell the house to

defendant Warren for \$152,000, pay off the redemption and other debts, and lease the house back from Warren. Warren obtained a purchase money mortgage from AHMA, and plaintiff signed a warranty deed to Warren. Warren defaulted on the mortgage to AHMA, which was foreclosed on June 21, 2006. The foreclosure was not redeemed, and AHMA became the grantee.

More than a year after the 2006 foreclosure, plaintiff filed suit, seeking to quiet title in her favor. She alleged that she had been tricked into deeding her home to Warren and that because the mortgage eventually purchased by AHMA was not based on a valid conveyance, it was not a valid mortgage. AHMA moved for summary disposition, asserting that it was a bona fide purchaser for value with no notice of plaintiff's alleged interest in the property. Plaintiff's counsel did not respond to the motion except to send a response by telefacsimile to the trial court the night before the hearing. The parties did not receive the response. Neither plaintiff nor her counsel appeared for the hearing. The trial court granted AHMA's motion, stating that the faxed response was not timely, and that it found AHMA's briefed arguments sound. No motion for reconsideration was filed.

This Court reviews de novo a trial court's decision to grant or deny a motion for summary disposition. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). Although the party moving for summary disposition has the initial burden of supporting his position by documentary evidence, the party opposing the motion has the burden of showing by evidentiary materials that a genuine issue of disputed fact exists. MCR 2.116(G); *Coblentz v Novi*, 475 Mich 558, 569; 719 NW2d 73 (2006).

The trial court correctly granted AHMA's motion for several reasons. First, by failing to respond to AHMA's motion for summary disposition, plaintiff effectively conceded that the motion should be granted. *Coblentz, supra*. Second, plaintiff's own pleadings make it clear that she signed the warranty deed that transferred the subject property to Warren, AHMA's defaulted mortgagee. Finally, under MCL 600.3236, when the redemption period expired, title vested in AHMA by way of the sheriff's deed. Nothing in the chain of title informed AHMA that plaintiff retained any interest in the property or that the transactions may have been fraudulent. The sale was noticed, and although plaintiff may not have had actual notice of the sale, she also did not have any legal interest in the property because she had deeded the home to Warren without retaining any legal interest. Thus, there was no due process violation in foreclosing on the property without her having notice.

Affirmed.

/s/ David H. Sawyer
/s/ Christopher M. Murray
/s/ Cynthia Diane Stephens