



SUPREME COURT OF ILLINOIS

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September 30, 2020

In re: MTGLQ Investors, LP, respondent, v. Scott Peters, petitioner.
Leave to appeal, Appellate Court, Second District.
126010

The Supreme Court today DENIED the Petition for Leave to Appeal in the above entitled cause.

The mandate of this Court will issue to the Appellate Court on 11/04/2020.

Michael J. Burke, J., took no part.

Very truly yours,

Carolyn Taft Gosboll

Clerk of the Supreme Court

Feb 2020 B
No. 2-19-0395
Summary Order filed February 19, 2020

NOTICE: This order was filed under Supreme Court Rule 23(c)(2) and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

MTGLQ INVESTORS, LP,) Appeal from the Circuit Court
Plaintiff-Appellee,) of McHenry County.
v.)
SCOTT PETERS, a/k/a Scott B. Peters,) No. 15-CH-1145
STANISLAWA GLOWACZ, UNKNOWN)
OWNERS AND NONRECORD)
CLAIMANTS, and LISA JOYCE,)
Defendants) Honorable
(Scott Peters, Defendant-Appellant).) Suzanne C. Mangiamele,
) Judge, Presiding.

JUSTICE SCHOSTOK delivered the judgment of the court.
Justices Jorgensen and Burke concurred in the judgment.

SUMMARY ORDER

- ¶ 1 In this foreclosure action, defendant, Scott Peters, appearing *pro se*, appeals the trial court's grant of summary judgment in favor of plaintiff, MTGLQ Investors, LP (collectively referred to as plaintiff with its predecessor-in-interest). We dismiss the appeal.
- ¶ 2 In March 2016, plaintiff filed an amended mortgage foreclosure complaint against defendant. Defendant filed several *pro se* documents admitting some allegations and stating that

Feb 2020 B

he lacked sufficient information to admit or deny others. He then filed a counterclaim broadly alleging fraud and lack of standing. He also raised multiple affirmative defenses.

¶ 3 Plaintiff's motion to dismiss the counterclaim was granted. Plaintiff then moved for summary judgment on the affirmative defenses, arguing a lack of a factual and legal basis for them and attaching relevant documents. Defendant replied with a memorandum and affidavit, arguing in a conclusory manner and without cogent legal argument that plaintiff engaged in fraud and lacked standing. He also introduced various due process and discovery arguments. Plaintiff filed a reply, again arguing that defendant failed to support his claims factually and that they lacked legal merit. The trial court granted the motion.

¶ 4 Plaintiff next moved for summary judgment on the complaint and entry of foreclosure and sale, attaching relevant affidavits and documents showing defendant's mortgage default. Defendant responded, again in a conclusory manner, and did not file a counter-affidavit or other sworn evidence. He included attachments with difficult-to-follow allegations of fraud, with no cogent legal argument. The trial court granted plaintiff summary judgment and denied defendant's motion to reconsider. Defendant appeals, contending that the trial court erred in granting plaintiff's motions for summary judgment.

¶ 5 Defendant's appellate brief is difficult to follow and violates multiple rules that govern appeals. In particular, Illinois Supreme Court Rule 341(h)(6) (eff. May 25, 2018) requires that an appellant's brief contain a statement of the facts necessary to an understanding of the case, stated fairly and without argument or comment, and with appropriate citations to the record on appeal. Plaintiff has included a statement of facts that fails to cite the record at all.

¶ 6 Further, Illinois Supreme Court Rule 341(h)(7) (eff. May 25, 2018) requires that the brief contain an argument section, "which shall contain the contentions of the appellant and the reasons

¶ 9 Defendant has also moved to strike plaintiff's brief for what he alleges are similar failures. However, plaintiff's brief follows the rules and sufficiently addresses the issues on appeal. Accordingly, defendant's motion is denied.

¶ 10 Despite our dismissal, we also note that defendant's appeal would fail on the merits. Plaintiff's pleadings alleged defendant's default and included the necessary copies of the mortgage and promissory note. Additionally, plaintiff filed an affidavit in support of its motion for summary judgment, providing specific details concerning defendant's default. Throughout the process, defendant provided only broad conclusory allegations. "Denials in a defendant's answer do not create a material issue of genuine fact to prevent summary judgment." *Parkway Bank & Trust Co. v. Korzen*, 2013 IL App (1st) 130380, ¶ 49. "When a party moving for summary judgment files supporting affidavits containing well-pleaded facts, and the party opposing the motion files no counteraffidavits, the material facts set forth in the movant's affidavits stand as admitted." *Id.* "The opposing party may not stand on his or her pleadings in order to create a genuine issue of material fact." *Id.* Defendant contends that his conclusory affidavit and unsworn verification under section 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109 (West 2018)) was enough. But those were simply in support of the conclusions stated in defendant's pleadings. Thus, "[t]he test of the motion for summary judgment lies in the entire record, pleadings, affidavits and counter-affidavits." *Klesath v. Barber*, 4 Ill. App. 3d 86, 88 (1972). Here, defendant failed to provide legal and evidentiary support to back his conclusory claims.

¶ 11 Appeal dismissed.

→ BECAUSE Denied Discovery
BY Court and Plaintiff