FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

PATRICIA A. KAUZLARICH,	)	
Plaintiff-Appellant,	)	Filed April 24, 1984 253
vs.	)	
FIRST IOWA STATE BANK OF ALBIA, IOWA, and DENNIS M. CARR, Sheriff of Monroe County, Iowa,	)	4-49 83-482
Defendants-Appellees.	)	

Appeal from the Iowa District Court for Monroe County - James P. Rielly, Judge.

Plaintiff appeals from a trial court order granting defendant's motion for summary judgment in an action involving an allegedly wrongful attempt to execute and levy upon a mobile home. AFFIRMED.

Marvin V. Colton, Albia, Iowa, for plaintiff-appellant.

John A. Pabst, Albia, Iowa, for defendant-appellee bank.

Annett J. Scieszinski, Monroe County Attorney, for defendant-appellee sheriff.

Considered by Oxberger, C.J., and Hayden and Sackett, JJ.

Plaintiff appeals from a trial court order granting defendant's motion for summary judgment in an action involving an allegedly wrongful attempt to execute and levy upon a mobile home.

Plaintiff, Patricia Kauzlarich, and her ex-husband, Paul Kauzlarich, were co-owners of a mobile home prior to the dissolution of their marriage. On March 25, 1980, Paul executed a promissory note and security agreement with defendant-bank for $1,000, listing the mobile home as security. The note provided that the security agreement would secure future or other indebtedness. Defendant's security interest was properly noted on the title to the mobile home.

On June 12, 1980, Paul executed another promissory note and security agreement with defendant on the same collateral for $2,032.39. The uncontradicted affidavit of the bank loan officer states that the amount of the second loan represents the total amount of the prior loan plus interest and an advance. The second security agreement was not noted on the title to the mobile home.

The marriage of Patricia and Paul was subsequently dissolved and the dissolution decree awarded the mobile home to Patricia while ordering Paul to pay the indebtedness on the property. Upon Paul's default defendant sued for a writ of replevin naming both Paul and Patricia as defendants. Patricia was dismissed from the action and a default judgment for $2,032.39 plus interest was entered against Paul. Patricia filed the present action to enjoin defendant from selling the mobile home and to recover actual and punitive damages for the allegedly wrongful execution. Defendant counterclaimed for foreclosure and a declaratory judgment that its security interest was valid. The trial court granted defendant's motion for summary judgment.

Our review of this equitable action is **de novo.** Iowa R. App. P. 4. A party is entitled to summary judgment if there is no genuine issue as to any material fact

and that party is entitled to a judgment as a matter of law. Iowa R. Civ. P. 237(c). The burden is on the party moving for summary judgment to establish a right thereto, and the court views the whole record in the light most favorable to the nonmoving party. Walker Shoe Store, Inc. v. Howard's Hobby Shop, 327 N.W.2d 725, 728 (Iowa 1982).

Plaintiff's affidavit asserts that the June promissory note and security agreement is not an extention, continuation, or advance of the March one; however, there are no facts recited in the affidavit on which this conclusion is based. Furthermore, plaintiff has cited no authority to the court to support her assertion that this issue is material to the outcome of this case. We have concluded that summary judgment for defendant was appropriate because after reviewing the facts in the light most favorable to plaintiff we are convinced that defendant had a valid security interest in the mobile home.

It has been held that a lender which perfects its security interest on its original loan remains secured and retains priority when it makes subsequent loans in which the original note is refinanced and additional money is lent. In re Rivet, 299 F. Supp. 374, 376 (E.D. Mich. 1969); In re McQueen, 27 Bankr. 717, 722-23 (D. Vt. 1983); Thorp Finance Corp. v. Ken Hodgins & Sons, 73 Mich. App. 428, 251 N.W.2d 614, 618 (1977). In the present case the evidence was undisputed that the second note represented an additional sum of money plus refinancing of the original loan. It is also undisputed that defendant properly perfected its interest in the security under the original agreement. We do not see how defendant's interest can be defeated under this set of facts. Although the cases cited above deal with perfection by filing, the same principles should control here where perfection is accomplished by a notation on the certificate of title. Under Iowa Code section 321.50(5), the provisions of Article 9 apply to security interests in vehicles unless a contrary intent is found in chapter 321. We have found nothing in the provisions of chapter 321 which would require a contrary result.

Since there were no facts alleged indicating a genuine issue of a material fact, the trial court properly granted summary judgment for defendant.

AFFIRMED.