FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

485

WAUKON STATE BANK, WAUKON, IOWA,

Plaintiff-Appellee,

vs.

BURNELL E.M. SORUM and **ANITA C. SORUM,**

Defendants-Appellants.

8-241
87-1386

Appeal from the Iowa District Court for Allamakee County (No. 21743), John Bauercamper, Judge.

The Sorums appeal from a district court judgment sustaining the Bank's forcible entry and detainer action and directing that the Sorums be removed from the premises and the Bank be put in possession. **AFFIRMED.**

William S. Hart of Waukon for defendants-appellants.

James U. Mellick of Waukon for plaintiff-appellee.

Heard by Oxberger, C.J., and Schlegel and Sackett, J.J.

OXBERGER, C.J.

This is an appeal from a district court judgment sustaining the Bank's forcible entry and detainer action and directing that the Sorums be removed from the premises and the Bank be put in possession. The Sorums claim that several procedural irregularities should act to require the court to recognize the Sorums' continued possession of the property. Our review of this equitable action is de novo. We affirm.

On June 10, 1986, the district court entered a decree of foreclosure in favor of the Bank and a six-month redemption period was granted. The property was sold at a sheriff's sale on July 21, 1986. The Bank then filed a forcible entry and detainer action against the Sorums. The Bank dismissed the suit without prejudice once they became aware that the redemption period should have been one year because the property involved was more than ten acres. The Bank then filed an Iowa Rule of Civil Procedure 252 petition to modify the original foreclosure decree to reflect the correct one-year redemption period. The district court denied the Bank's petition.

On August 18, 1987, the Bank filed the present forcible entry and detainer action. Prior to the hearing, the Sorums filed a motion to dismiss. The hearing was held and the district court sustained the Bank's petition on September 4, 1987. On September 8, 1987, the Sorums filed an Iowa Rule of Civil Procedure 252 petition asking the

court to vacate or modify the prior decree on various grounds, including the defense that Iowa Code section 648.18 barred the Bank's possession. The district court dismissed the Sorums' petition on September 14, 1987.

Sorums first contend that the district court erred in not ruling on defendants' motion to dismiss in the forcible entry and detainer action. Forcible entry or detention of property is a summary proceeding under chapter 648 of the Iowa Code. While the court did not issue a separate ruling on the defendants' motion to dismiss, the court did address issues raised by the Sorums and effectively overruled their Motion to Dismiss in the September 4, 1987 order.

Second, the Sorums contend the district court erred in not allowing the defendants to plead and prove the bar contained in Iowa Code section 648.18. Section 648.18 provides: "Thirty days' peaceable possession with the knowledge of the plaintiff after the cause of action accrues is a bar to this proceeding." Iowa Code § 648.18 (1985). This statute provides a bar only upon an affirmative showing of peaceable possession for the stated time. Town of Lakota v. Gray, 240 Iowa 193, ___, 35 N.W.2d 841, 842 (1949). The defendant is required to make this showing if it does not appear on the face of the petition. Id. Mere possession is not enough. Id.

The defendants did not raise this defense prior to submission of the Bank's petition following the August 31, 1987 hearing on the present forcible entry and detainer action. As such, we find that defendants have waived this defense.

Finally, the Sorums contend that the district court erred in not allowing the defendants to introduce evidence in the forcible entry and detainer action that plaintiff had knowledge it secured an illegal judgment in the foreclosure action. The record reveals that Sorums never attempted to introduce evidence of this nature in the form of a direct attack on the June 10, 1986 default foreclosure decree in the foreclosure action. Sorums' attack on the foreclosure judgment came by way of defense to the Bank's forcible entry and detainer action. This constitutes a collateral attack on the default foreclosure decree. A judgment may not be collaterally attacked unless there is a claim that it was entered without jurisdiction. Marshfield Homes, Inc. v. Eichmeier, 176 N.W.2d 850 (Iowa 1970). There was no such claim in this case. Thus, we find this claim to be improperly raised.

We affirm the trial court on all issues.

AFFIRMED.