FILED
OCT 2 8 1987
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

136

TERRANCE PATRICK McKENNA, Individually; TERRANCE P. McKENNA, d/b/a McKENNA FARMS; ANN T. McKENNA, Individually; ANN T. McKENNA, d/b/a McKENNA FARMS; A T.V., Inc.; WILLIAM K. McKENNA, Individually,

Plaintiffs-Appellants,

vs.

SECURITY BANK & TRUST COMPANY OF DECORAH, IOWA,

Defendant-Appellee.

Filed October 28, 1987

7-344
86-1720

Appeal from the Iowa District Court for Winneshiek County (20993), James L. Beeghly, Judge.

Plaintiffs appeal from the district court order granting defendant's motion for summary judgment. **AFFIRMED.**

Peter C. Riley of Tom Riley Law Firm, Cedar Rapids, for plaintiffs-appellants.

Richard R. Phillips of Phillips Law Office, Decorah, for defendant-appellee.

Considered by Donielson, P.J., and Schlegel and Hayden, JJ. Snell, J. takes no part.

HAYDEN, J. 137

Originally, the defendant bank brought a mortgage foreclosure action against the plaintiffs, except for William K. McKenna, on July 12, 1982. Plaintiffs filed a counterclaim against the bank for breach of contract in that action. Plaintiffs claimed the bank promised to extend a $200,000 line of credit in exchange for a second mortgage, and the bank breached its oral contract to loan the money. They attempted to bifurcate their counterclaim and obtain a jury trial. On August 28, 1984, they dismissed their counterclaim without prejudice. The foreclosure action was tried to the court on August 29, 1984. A decision was rendered on October 5, 1984, and filed October 8, 1984, granting foreclosure of the mortgage by the bank with personal judgment against McKenna Farms, Terrance P. McKenna and Ann T. McKenna and judgment in rem against the mortgaged premises. On October 5, 1984, in the present action, plaintiffs filed their breach of contract and emotional distress claims against the bank requesting a jury trial. The bank filed a motion for summary judgment, claiming that the present claims were compulsory counterclaims in the prior case and so were barred under Iowa Rules of Civil Procedure 29. The trial court granted the motion for summary judgment against the plaintiffs, except for William K. McKenna, who was not a party to the foreclosure action.

Plaintiffs allege the trial court erred in granting the bank's motion for summary judgment with respect to the plaintiffs Ann and Terrance McKenna. They state their claim is not a compulsory counterclaim because the evidence to prove the oral contract would not be the same as that in the foreclosure action. The McKennas argue that even if their claim is a compulsory counterclaim, it was not mature at the time of the foreclosure action because part of their damages accrued after the bank's foreclosure. We affirm.

Our scope of review is for correction of errors at law. Iowa R. App. P. 4.

Rule 29, Iowa Rules of Civil Procedure, the compulsory counterclaim rule, provides:

> A pleading must contain a counterclaim for every cause of action then matured, and not the subject of a pending action, held by the pleader against any opposing party and arising out of the transaction or occurrence that is the basis of such opposing party's claim, unless its adjudication would require the presence of indispensable parties of whom jurisdiction cannot be acquired. A final judgment on the merits shall bar such a counterclaim, although not pleaded.

As stated in Harrington v. Polk County Federal Savings and Loan Association, 196 N.W.2d 543, 545 (Iowa 1972):

> Rule 29 compels a defendant to present certain claims for trial in the original action. Its objective is to discourage separate litigations covering the same subject matter by requiring that all logically related claims be brought in the same action through the penalty of precluding the later assertion of omitted claims. Employers Mutual Casualty Company v. Hanshaw, 176 N.W.2d 653, 655 (Iowa 1970).
>
> A claim is a compulsory counterclaim as contemplated by rule 29 where it arises out of the transaction or occurrence that is the basis of the opposing party's claim if: (1) it is then matured, (2) it is not the subject of a pending action, (3) it is held by the pleader against the opposing party, and (4) it does not require the presence of indispensable parties of whom jurisdiction cannot be acquired. . . .
>
> The[se] four elements . . . are fairly clear and do not often provide a battleground for litigation. Rather, argument more frequently centers on the question whether the disputed claim "arises out of the transaction or occurrence that is the basis of [the] opposing parties' claim."

The Iowa Supreme Court has consistently followed one test to determine whether "a claim arises out of the same transaction or occurrence." Is there any logical relation between the plaintiff's claim and the counterclaim? Id.

In applying this standard to our case, it is evident plaintiffs' claim for damages is logically related to defendant's foreclosure action; both actions ultimately stem from the mortgage agreement transaction.

Plaintiffs' argument their injury did not accrue until after the foreclosure action is without merit.

AFFIRMED.