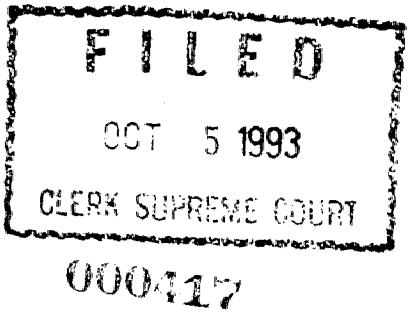
IN THE COURT OF APPEALS OF IOWA

No. 3-355 / 92-1102



000417

MICHAEL RADOSEVICH,
Plaintiff-Appellant,

vs.

DIANE LEE KOST, et al.,
Defendants-Appellees,

and
HELEN CICCO, as Administrator
of the Estate of Lubo J. Radosevich,
Intervenor-Appellee.

Appeal from the Iowa District Court for Appanoose County, Richard J. Vogel, Judge.

The plaintiff appeals a ruling of the district court granting a motion for summary judgment on an application for partition of real estate. **AFFIRMED.**

Michael Radosevich, pro se, Washington, D.C.

Daniel P. Wilson of Drake, Wilson & Jay, Centerville, for intervenor-appellee.

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

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OXBERGER, C.J.

Lubo J. Radosevich died intestate on September 6, 1990. Lubo owned an undivided one-fifth interest in real estate. Helen Cicco was appointed administrator of the estate. Cicco owns a one-fifth interest in the real estate. Subsequently, Michael Radosevich, a co-owner of the real estate, filed a petition seeking partition of the real estate. Cicco, who is also a named defendant, filed a petition for intervention as the administrator of Lubo's estate. Cicco asked title to the real estate be quieted in the parties and that the real estate be ordered sold. The district court granted the petition for intervention.

Michael filed a motion for summary judgment or, in the alternative, a motion for default against Cicco. The district court found that the motion for default was inappropriate as Cicco filed a timely answer. The district court held a hearing on the motion for summary judgment. The district court found that all parties agreed that partition was appropriate. The district court sustained the motion for summary judgment and ordered the real estate sold at public auction. On June 8, 1992, the district court entered judgment and a decree for partition.

On July 6, 1992, Michael filed a motion for new trial and a notice of appeal. The district court held that it lacked jurisdiction to rule on the motion for new trial. On appeal, Michael argues that Cicco lacked standing to intervene in this action. Michael contends that the real

estate passed immediately to Lubo's heirs and that the estate did not have an interest in the real estate. Michael also argues that the district court erred in denying his motion for default. He contends that Cicco failed to file an answer in her own behalf and that default is warranted.

In this equity action, our scope of review is de novo. Iowa R. App. P. 4.

Radosevich raises numerous issues on appeal. Prior to addressing any of the host of issues presented, we address the threshold question before us.

Initially, Radosevich petitioned for a partition of the real estate. The petition was granted and the district court entered judgment and a decree for partition.

The owners of property sold for the partition of proceeds have the right to obtain the highest price available. Varnell v. Lee, 234 Iowa 1053, 1062, 14 N.W.2d 708, 712 (Iowa 1944). The chief purpose of a partition sale is to secure for such owners the most advantageous sale reasonably available. Id.

The district court granted the remedy requested by Radosevich. He partitioned the property and made the necessary provisions in preparation for sale. No other remedy is applicable or available. The decision of the district court is affirmed.

AFFIRMED.

Hayden, J., concurs; Sackett, J., concurs specially without opinion.