FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 0-396 / 89-1685

236

JEROME NEILL and **SHARON NEILL,**

Appellants,

vs.

FEDERAL LAND BANK ASSOCIATION OF HARLAN, IOWA, A Subsidiary of FEDERAL LAND BANK ASSOCIATION OF OMAHA,

Appellee.

Appeal from the Iowa District Court for Harrison County, Leo F. Connolly, Judge.

The Neills appeal a district court order granting the Federal Land Bank Association's motion for summary judgment and entering judgment against the Neills. **AFFIRMED.**

Peter C. Riley and David J. Smith of Tom Riley Law Firm, P.C., Cedar Rapids, for appellants.

Harry W. Zanville and Joseph W. Seidlin of Zanville Law Offices, Waterloo, for appellee.

Considered by Schlegel, P.J., and Hayden and Habhab, JJ.

PER CURIAM

In July 1982 the Neills filed a voluntary bankruptcy petition under chapter 11. In April 1983 the Neills filed a plan proposing a sale of farm land. The Neills notified interested parties of the proposed sale of the farm to an entity controlled by some of their relatives. In May 1983 the bankruptcy court held a hearing concerning the proposed sale. The State Bank and Trust, holder of the Neills' mortgage, and the Small Business Administration filed written objections to the sale. At the hearing the Federal Land Bank Association of Harlan (FLBH) also voiced its objection to the sale. On May 25, 1983, the bankruptcy court sustained the objections to the sale. Eventually, in December 1983, the bankruptcy court dismissed the chapter 11 proceeding. The Neills did not appeal.

In October 1984 the Federal Land Bank of Omaha filed a cross-petition in a Harrison County District Court case, Moad v. Neill, seeking a foreclosure judgment on the land the Neills proposed to sell. A foreclosure judgment was entered in December 1985.

In May 1988 the Neills filed the present lawsuit against FLBH based on its objection to the proposed sale of the land in the Neills' chapter 11 bankruptcy action in 1983. The Neills then filed a chapter 7 bankruptcy action, and the trustee abandoned this lawsuit. FLBH filed a motion for summary judgment seeking dismissal of this lawsuit on various grounds. The district court granted the

motion, and the Neills have appealed. FLBH's counterclaim for abuse of process and Iowa Rule of Civil Procedure 80 sanctions are pending the outcome of this appeal.

Summary judgment is appropriate only if there exits no genuine issue of material fact. Farm Bureau Mutual Insurance Co. v. Miline, 242 N.W.2d 422, 423 (Iowa 1988). The moving party has the burden to show the nonexistence of a material fact. Id. The evidence must be viewed in the light most favorable to the nonmoving party. Thorp Credit, Inc. v. Gott, 387 N.W.2d 342, 343 (Iowa 1986). This procedure is functionally akin to a directed verdict, and every legitimate inference that reasonably can be deduced from the the evidence should be afforded the nonmoving party. Id. A fact issue is generated if reasonable minds can differ on how the issue should be resolved. Id. If the conflict in the record consists only of legal consequences flowing from undisputed facts, entry of summary judgment is proper. Farm Bureau Mutual Insurance, 424 N.W.2d at 423.

However, the nonmoving party may not simply rest on its pleadings and allegations once a motion for summary judgment is filed.

> When a motion for summary judgment is made and supported as provided in [Iowa R. Civ. P. 237], an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him.

Iowa R. Civ. P. 237(e)

Upon a review of this case, we are convinced the trial court was correct in its grant of summary judgment. We affirm the trial court.

AFFIRMED.