FILED
MAY 20 1977
CLERK SUPREME COURT

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IN THE COURT OF APPEALS OF IOWA

ROBERT J. SHANNON and BARBARA J. SHANNON, Appellees, v. CHARLES ULIN and EVELEEN ULIN, Appellants.	)	Filed May 20, 1977 125 2-58788

Appeal from Keokuk District Court - L. R. Carson, Judge.

Appellants appeal trial court's construction of their notice of forfeiture of real estate contract. Affirmed.

Heslinga and Heslinga, of Oskaloosa, for appellants.

Michael W. Mahaffey, McNeil & Sunleaf, of Montezuma, for appellees.

Submitted to Allbee, C.J., and Donielson, Snell, Oxberger and Carter, JJ.

PER CURIAM

Defendants appeal trial court's ruling that they had failed to effect a forfeiture of their land contract with plaintiffs. Our review is de novo and we affirm the trial court. *See* Hansen v. Chapin, 232 N.W.2d 506, 509 (Iowa 1975). On August 6, 1974, defendants caused to be served upon plaintiffs a statutory notice of forfeiture pursuant to section 656.2, The Code, showing plaintiffs to be $2012.28 in default. Plaintiffs held a public auction on August 31, 1974, for sale of the land and contract. Defendant Charles Ulin was present at this auction and bid upon the land, although the land and contract was purchased by one Clingan. On September 6, 1974, Ulin filed his notice of forfeiture.

Wemer v. Long, 185 N.W.2d 243, 247 (Iowa 1971) recognizes that a vendor attempting to effect a forfeiture may waive it or he may be estopped to enforce an attempted forfeiture by subsequent conduct inconsistent with intent to rely upon the forfeiture. The burden upon vendee to show a waiver or estoppel is by a preponderance of the evidence. Hansen v. Chapin, supra. Defendants' conduct in attending the auction and bidding on the land and contract demonstrate an intent inconsistent with a reliance upon the statutory forfeiture.

Forfeitures are not favored in equity. Wemer v. Long, supra. Resolution of this case upon this narrow ground renders unnecessary consideration of plaintiffs' argument that 30 days to comply with the defendants' demands was not sufficient given defendants' earlier waiver of payments. *See* Bettis v. Bettis, 228 N.W.2d 193 (Iowa 1975).

Trial court's judgment hereby is affirmed.