STATE OF MICHIGAN

COURT OF APPEALS

STERLING BANK & TRUST,

Plaintiff/Counter-Defendant-Appellee,

v

TWENTY-FIRST CENTURY FINANCIAL CORPORATION, LADYE A. LEPPEK, PAUL E. HAMILTON, GAIL H. HAMILTON, and UNITED STATES TREASURY DEPARTMENT,

Defendants-Cross-Defendants,

and

LYNNE WOLENSKI,

Defendant,

and

F. RAYMOND STORAI,

Defendant/Counter-Plaintiff-Cross-Plaintiff-Appellant.

UNPUBLISHED
March 15, 2002

No. 223972
Ingham Circuit Court
LC No. 98-088427-CH

Before: Sawyer, P.J., and Murphy and Hoekstra, JJ.

PER CURIAM.

Defendant F. Raymond Storai[1] appeals as of right the circuit court's judgment for plaintiff in this action to quiet title. We affirm.

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[1] For purposes of this opinion, "defendant" refers to defendant Storai. The other defendants are not parties to this appeal.

Defendant first asserts that the lower court erred in finding he had no legal or equitable title to the property. Defendant presents two bases for a one-third interest in the property. First, he contends he holds legal title by virtue of a quitclaim deed executed by the sole shareholder of the now-dissolved corporation that possessed legal title to the property. Defendant relies on the doctrine that a corporation's assets pass at dissolution to its shareholders, subject to creditors' claims. MCL 450.1855a; *Weber v Enoch C Roberts Iron Ore Co*, 270 Mich 38, 46; 258 NW 408 (1935). Thus, defendant argues, when the corporation dissolved, title passed to the sole shareholder, Lynne Wolenski, who then passed a one-third interest to defendant through the quitclaim deed.

Defendant's argument fails for two reasons. First, defendant fails to address whether the corporation had creditors with claims to the property superior to Wolenski's. Because defendant bears the burden of proving right or title superior to plaintiff's, *Beulah Hoagland Appleton Qualified Personal Residence Trust v Emmet Co Road Comm*, 236 Mich App 546, 550; 600 NW2d 698 (1999), he must show that his interest was not subject to claims by the corporation's creditors. Defendant has failed to meet that burden. Second, and more importantly, the corporation was dissolved more than two years *after* Wolenski executed the quitclaim deed in defendant's favor. Thus, even assuming Wolenski acquired title to the property when the corporation was dissolved, she did not have that title when she executed the quitclaim deed. Defendant contends that a corporation's dissolution ratifies the sole shareholder's pre-dissolution property transfers. However, defendant cites no authority for this proposition. An appellant may not leave it to this Court to find support for his arguments. *Goolsby v Detroit*, 419 Mich 651, 655 n 1; 358 NW2d 856 (1984).

Second, defendant claims an equitable right in the property, insisting he is entitled to an equitable lien because he advanced money to Wolenski in reliance on her verbal commitment to convey a one-third interest in the property. Defendant's assertion is not supported by the record, which indicates Wolenski played no role in the sale of the interest other than signing the quitclaim deed. In addition, the doctrine of equitable lien applies to protect a party's identifiable security interest where the intent to give the interest is clear and the party relies on that intent. *Schrot v Garnett*, 370 Mich 161, 164; 121 NW2d 722 (1963). Here, neither party intended to create a security interest through the transfer of the one-third interest. Thus, imposition of an equitable lien in defendant's favor would be inappropriate.

Next, defendant contends that the trial court erred in finding that plaintiff held an equitable mortgage on the property. As a preliminary matter, we note the trial court cited equitable mortgage as an *alternative* ground for quieting title in plaintiff, relying primarily on its equitable reformation powers for its holding. Thus, even if we find the trial court erred in imposing an equitable mortgage in plaintiff's favor, this would not constitute grounds for reversing the trial court's decision.

However, the trial court did not err in its holding. The Sixth Circuit has interpreted Michigan law to allow imposition of an equitable mortgage where a party gives money in return for a promise to give a mortgage interest that ultimately is not conveyed or is ineffectively conveyed. *Schram v Burt*, 111 F2d 557, 561 (CA 6, 1940). Although Michigan courts have not imposed equitable mortgages in similar circumstances, neither has our Supreme Court held that doing so would be improper. Thus, while we are not bound to follow *Schram*, it provides

persuasive authority regarding this application of the equitable mortgage doctrine. *Scheuneman v General Motors Corp*, 243 Mich App 210, 216 n 5; 622 NW2d 525 (2000).

Here, plaintiff forwarded money in return for a promise to convey a valid mortgage. Plaintiff instead received a fraudulent mortgage. Thus, plaintiff was entitled to an equitable mortgage on the property, and the trial court did not err in imposing it.

Affirmed.

/s/ David H. Sawyer
/s/ William B. Murphy
/s/ Joel P. Hoekstra