If this opinion indicates that it is "FOR PUBLICATION," it is subject to revision until final publication in the Michigan Appeals Reports.

STATE OF MICHIGAN

COURT OF APPEALS

DIANE WARSTLER and FLOYD WARSTLER, JR.,

Plaintiffs/Counterdefendants-Appellees,

v

THOMAS M. BEAUDOIN,

Defendant/Counterplaintiff-Appellant.

UNPUBLISHED
December 17, 2020

No. 351556
Lapeer Circuit Court
LC No. 19-052974-CH

Before: MURRAY, C.J., and K. F. KELLY and STEPHENS, JJ.

PER CURIAM.

In this real property dispute, defendant/counterplaintiff (defendant) appeals as of right the trial court order quieting title to the property in favor of plaintiffs/counterdefendants (plaintiffs). Finding no errors warranting reversal, we affirm.

I. BASIC FACTS AND PROCEDURAL HISTORY

This case involves a dispute between plaintiffs and defendant over the ownership of 10.099 acres of vacant land located in Dryden Township, Lapeer County, Michigan. The current tax parcel number for the 10.099 acres of vacant land is 44-007-022-021-30 ("parcel 30").[1] Plaintiffs and defendant each claim ownership of parcel 30. Plaintiffs also previously owned an adjacent parcel of land consisting of 18.71 acres that currently has an address of 4526 Casey Road, Dryden Township. However, in June 2015, plaintiffs sold the 4526 Casey Road property to Thomas Mackey. On December 13, 2017, defendant recorded a quit claim deed executed on December 6, 2017, that purportedly conveyed parcel 30, the 10.099 acres of vacant land, to him from a successor of Mackey named Val Fitzsimons for consideration of $100. Consequently, in December 2018, plaintiffs' counsel sent a notice and demand to defendant advising that he had "no legal or

[1] The history of this parcel and an adjoining parcel is somewhat complicated in that the parcels have been reconfigured over the years.

contractual right to record an interest" against plaintiffs' property. Defendant apparently exchanged phone and written correspondence with plaintiffs' counsel indicating that he was investigating the chain of title, that Fitzsimons also allegedly placed a cloud on the title, and that Fitzsimons had an "extensive criminal history." After his investigation, defendant agreed to meet with plaintiffs' counsel.

In January 2019, plaintiffs filed this action to quiet title to parcel 30. Defendant, appearing *in propria persona*, filed a countercomplaint as well as a motion for summary disposition pursuant to MCR 2.116(C)(10). Plaintiffs moved for a more definite statement of defendant's countercomplaint in lieu of an answer, alleging that it did not comply with applicable court rules. The trial court granted plaintiffs' motion, and defendant filed an amended countercomplaint. Plaintiffs again moved to strike the amended countercomplaint as well as defendant's motion for summary disposition for failure to comply with the court rules. However, plaintiffs also asserted that summary disposition was proper in their favor. On October 8, 2019, the trial court heard oral argument on the pending motions. Defendant did not appear at the hearing, purportedly because of health reasons. The trial court granted plaintiffs' motion to strike defendant's countercomplaint, but denied plaintiffs' motion to strike defendant's motion for summary disposition. Instead, the trial court addressed the merits and denied defendant's motion for summary disposition, but entered judgment for plaintiffs under MCR 2.116(I)(2), and quieted title to parcel 30 in their favor. Defendant then filed a motion to strike plaintiffs' motion for summary disposition (even though plaintiffs never filed a motion for summary disposition) and a motion to dismiss the case. The trial court denied both of defendant's motions. This appeal followed.

II. JURISDICTION ON APPEAL

Initially, plaintiffs contend that this Court lacks jurisdiction to decide this appeal because defendant failed to file the claim of appeal within 21 days of the entry of the October 8, 2019 final order. Plaintiffs previously made the same argument in a motion to dismiss the appeal, which this Court denied. *Warstler v Beaudoin*, unpublished order of the Court of Appeals, entered February 7, 2020 (Docket No. 351556). In accordance with that order, we conclude that plaintiffs' jurisdictional challenge lacks merit.

MCR 7.204(A) provides that the time for filing an appeal of right is jurisdictional. Under MCR 7.204(A)(1), an appeal of right must be filed within 21 days after entry of the order being appealed from or within 21 days after entry of an order deciding a timely motion for postjudgment relief, provided the motion for postjudgment relief was filed within the initial 21-day appeal period or within further time allowed by the trial court.

In this case, the final order, the judgment in favor of plaintiffs, was entered on October 8, 2019. Plaintiffs admit that defendant filed a motion to strike plaintiffs' motion for summary disposition and a motion to dismiss within 21 days after entry of the judgment in favor of plaintiffs. The order denying the motion to strike plaintiffs' motion for summary disposition and denying the motion to dismiss was entered on November 4, 2019. Defendant filed his claim of appeal on November 18, 2019, within the 21-day period required under the court rule.

Under these circumstances, the claim of appeal was timely filed. MCR 7.204(A)(1). Defendant filed timely motions for postjudgment relief within 21 days of entry of the judgment in

favor of plaintiffs. Further, he filed his claim of appeal within 21 days of the order denying his motions for postjudgment relief. Under these circumstances, the claim of appeal was timely.

III. STANDARD OF REVIEW

A trial court's decision regarding a motion for summary disposition is reviewed de novo. *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 159; 934 NW2d 665 (2019). Summary disposition is appropriate pursuant to MCR 2.116(C)(10) where there is "no genuine issue as to any material fact, and the moving party is entitled to judgment or partial judgment as a matter of law." MCR 2.116(C)(10). When reviewing a motion for summary disposition challenged under MCR 2.116(C)(10), the court considers the affidavits, pleadings, depositions, admissions, and other admissible documentary evidence then filed in the action or submitted by the parties. MCR 2.116(G)(4), (G)(5); *Puetz v Spectrum Health Hosps*, 324 Mich App 51, 68; 919 NW2d 439 (2018). To succeed on a motion for summary disposition, the moving party must make and support the motion with admissible documentary evidence. *McCoig Materials LLC v Galui Constr Inc*, 295 Mich App 684, 694; 818 NW2d 410 (2012). After the moving party makes and supports the motion, the burden shifts to the nonmoving to demonstrate a genuine issue of material fact. *Id.*

A motion for summary disposition granted under MCR 2.116(I)(2) is also reviewed de novo. *RPF Oil Co v Genesee Co*, 330 Mich App 533, 537; ___ NW2d ___ (2019). "If, after careful review of the evidence, it appears to the trial court that there is no genuine issue of material fact and the opposing party is entitled to judgment as a matter of law, then summary disposition is properly granted under MCR 2.116(I)(2)." *Lockwood v Twp of Ellington*, 323 Mich App 392, 401; 917 NW2d 413 (2018) (citations omitted). Additionally, equitable actions to resolve title disputes to property and questions of law are reviewed de novo. *Jonkers v Summit Twp*, 278 Mich App 263, 265; 747 NW2d 901 (2008).

IV. ANALYSIS

As noted, defendant has proceeded *in propria persona* throughout this case, both below and on appeal. An appellant who proceeds *in propria persona* is generally held to the same standards as attorneys. *Baird v Baird*, 368 Mich 536, 539; 118 NW2d 427 (1962); *Totman v Royal Oak Sch Dist*, 135 Mich App 121, 126; 352 NW2d 364 (1984). A litigant who decides to proceed without counsel is "bound by the burdens that accompany" that decision. *Hoven v Hoven*, 9 Mich App 168, 174; 156 NW2d 65 (1967).

An appellant's brief must contain a statement of questions presented. MCR 7.212(C)(5). Defendant's brief on appeal fails to provide a statement of questions presented. Defendant has thus waived his appellate arguments because he has failed to include them in a statement of questions presented. *Seifeddine v Jaber*, 327 Mich App 514, 521; 934 NW2d 64 (2019).

Nonetheless, it is apparent that defendant essentially alleges that the trial court erred in denying his motion for summary disposition, granting summary disposition to plaintiffs under MCR 2.116(I)(2), and quieting title in favor of plaintiffs with respect to parcel 30. We conclude that defendant's arguments are without merit.

The record supports the trial court's determination that there was no genuine issue of material fact and that plaintiffs were entitled to judgment as a matter of law. The documents

appended to plaintiffs' complaint established their ownership of parcel 30, and defendant failed to present evidence disputing plaintiffs' ownership of parcel 30. *McCoig Materials LLC*, 295 Mich App at 694.

Actions to quiet title are governed by MCL 600.2932 and MCR 3.411. MCL 600.2932(1) provides:

> Any person, whether he is in possession of the land in question or not, who claims any right in, title to, equitable title to, interest in, or right to possession of land, may bring an action in the circuit courts against any other person who claims or might claim any interest inconsistent with the interest claimed by the plaintiff, whether the defendant is in possession of the land or not.

"In an action to quiet title, the plaintiffs have the burden of proof and must make out a prima facie case of title. If the plaintiffs make out a prima facie case, the defendants then have the burden of proving superior right or title in themselves." *Beulah Hoagland Appleton Qualified Personal Residence Trust v Emmet Co Rd Comm*, 236 Mich App 546, 550; 600 NW2d 698 (1999) (citation omitted).

In this case, the record shows that, on October 11, 1991, plaintiffs acquired ownership of the combined 28.809 acres of land through a warranty deed from John C. Phillips. This land consisted of the 18.71 acres of land that now has an address of 4526 Casey Road and the 10.099 acres of vacant land that is now parcel 30. On May 28, 2015, plaintiffs entered into a purchase agreement with Thomas Mackey to sell him the 18.71 acres of land identified as 4526 Casey Road. Plaintiffs submitted a parcel division application to Dryden Township, seeking approval for the division of the property into two separate parcels of 18.71 acres and 10.099 acres (which was a reconfiguration of an earlier division of the 28.809 acres into two differently configured parcels), and Dryden Township approved the parcel division application on June 11, 2015. On June 18, 2015, plaintiffs closed on the sale to Mackey of the 18.71 acres of land located at 4526 Casey Road. Plaintiffs retained ownership of parcel 30, i.e., the 10.099 acres of land adjacent to 4526 Casey Road. Although defendant recorded a quit claim deed executed on December 6, 2017, purporting to convey parcel 30 to defendant from a successor in interest of Mackey, plaintiffs had never conveyed to Mackey the 10.099 acres that became parcel 30. However, a successor in interest of Mackey could not convey parcel 30 to defendant in light of plaintiffs retained ownership of that land. Accordingly, the trial court correctly granted summary disposition to plaintiffs and quieted title in their favor with respect to parcel 30.

Defendant makes various arguments attempting to challenge the trial court's decision. It should be noted at the outset that defendant's arguments are generally cursory, difficult to follow, and unsupported by adequate citation of pertinent authority. "A party may not simply announce a position and leave it to this Court to make the party's arguments and search for authority to support the party's position. Failure to adequately brief an issue constitutes abandonment." *Seifeddine*, 327 Mich App at 519-520 (citation omitted). We will nonetheless address defendant's arguments to the extent that they can be understood.

Defendant asserts that Mackey did not really sign the May 28, 2015 purchase agreement attached to plaintiffs' complaint. He claims that Mackey's signature on other documents looks

different from his purported signature on the purchase agreement. But defendant has offered no evidence to support this assertion, such as an affidavit from a qualified handwriting expert.

Defendant also alleges that the land could not be divided without the approval of Dryden Township. But as explained, plaintiffs obtained Dryden Township's approval for the reconfiguration and division of the property before conveying the 18.71 acres to Mackey.

Defendant submits that, by failing to answer defendant's countercomplaint, plaintiffs admitted the allegations in the countercomplaint, including that plaintiffs conveyed the entire 28.809 acres to Mackey and that defendant was now the owner of parcel 30. But defendant's argument ignores the trial court order that struck the countercomplaint from the record because defendant failed to file a more definite statement of his countercomplaint that conformed with court rules, as the trial court had previously ordered defendant to do. "When an appellant fails to address the basis of a trial court's decision, this Court need not even consider granting relief." *Seifeddine*, 327 Mich App at 522.

Defendant contends that the trial court lacked equity jurisdiction because plaintiffs made admissions by failing to answer the countercomplaint. Again, this argument ignores the fact that the trial court struck the countercomplaint from the record. Also, defendant fails to explain how a party's failure to answer a pleading would deprive the trial court of equity jurisdiction. Defendant "cannot leave it to this Court to make his arguments for him. His failure to adequately brief the issue constitutes abandonment." *Id*. at 521 (citation omitted). In any event, it is well settled that a circuit court has general equity jurisdiction, *Cherry Growers, Inc v Agricultural Marketing & Bargaining Bd*, 240 Mich App 153, 161; 610 NW2d 613 (2000), and that an action to quiet title is an equitable action, *Beach v Lima Twp*, 489 Mich 99, 106; 802 NW2d 1 (2011). The circuit court in this case unquestionably had jurisdiction to resolve this matter.

Finally, defendant asserts that plaintiffs were involved in a forgery of documents to combine and split the property and that this somehow proves that plaintiffs sold Mackey the entire 28.809 acres and not merely 18.71 acres as they allege. Defendant has also made vague allusions to some type of conspiracy in this case. But defendant has provided no evidence of any forgery or conspiracy. Defendant has failed to establish any error in the trial court's resolution of this case.

Affirmed. Plaintiffs, having prevailed, may tax costs.

/s/ Christopher M. Murray
/s/ Kirsten Frank Kelly
/s/ Cynthia Diane Stephens