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DISTRICT I

November 19, 2015

To:

Hon. John J. DiMotto
Circuit Court Judge
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Gary Charles Lizalek
c/o Tom Weiss, Agent
6815 N. Ironwood Lane
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You are hereby notified that the Court has entered the following opinion and order:

2014AP2647

Gary Charles Lizalek v. Milwaukee County (L.C. #2014CV7984)

Before Kessler and Brennan, JJ., and Daniel L. LaRocque, Reserve Judge.

Gary Charles Lizalek, *pro se*, appeals from the circuit court's order dismissing his action. The issues are: (1) whether Lizalek had standing to pursue his claim; and (2) whether Lizalek had grounds for relief due to fraud or improper service of a proposed dismissal order. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2013-14).¹ We affirm.

Lizalek brought this action to quiet title to land at 120 West Mount Royal Road in Glendale, Wisconsin. The circuit court dismissed the action with prejudice on the grounds that

¹ All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

Lizalek lacked standing because a prior foreclosure action had extinguished his rights to the property in question.

A party has standing to bring a lawsuit if he has “a sufficient stake in an otherwise justiciable controversy to obtain judicial resolution of the controversy.” *Norquist v. Zeuske*, 211 Wis. 2d 241, 247, 564 N.W.2d 748 (1997) (citation and quotations omitted). We employ a two-step analysis to determine whether a party has standing. *Id.* We must first consider whether the person “has suffered a threatened or actual injury.” *Id.* We must also consider “whether the interest asserted is recognized by law.” *Id.* at 247-48. As the circuit court succinctly explained, Lizalek “has not suffered a threatened or actual injury because, as a result of the final judicial determination in case Nos. 11CV011128 and 2012AP961, he is forever barred and foreclosed of all rights, title and interest in the property in question.” In addition:

The “interest asserted” in his Quiet Title action is an interest that he does not have. His “interest asserted” is nonexistent because, as a result of the final judicial determination in Case No. 11CV011128 and 2012AP961, he is forever barred and foreclosed of all rights, title and interest in the property in question.

We therefore conclude that Lizalek lacked standing to bring his action.

Lizalek next argues that he was the victim of fraud because he did not have proper notice of Milwaukee County’s proposed order to dismiss his quiet title action. Assuming for the sake of argument that Lizalek was not properly served with Milwaukee County’s proposed dismissal order, any error is harmless. An error is harmless when there is no reasonable probability that the error contributed to the outcome of the case. *State v. Harvey*, 2002 WI 93, ¶¶40-41, 254 Wis. 2d 442, 647 N.W.2d 189. Lizalek’s interest in the property was extinguished by the foreclosure action in case No. 2011CV11128. Because Lizalek had no standing to bring this action, any error in failing to serve him with the proposed dismissal order is harmless.

Finally, to the extent Lizalek attempts to present an argument on appeal on behalf of Nancy Lizalek, she is not a party to this appeal and Lizalek may not represent her interests, as we explained in our order dated May 29, 2015. Moreover, she, too, had no standing to bring this quiet title action because her interest in the property was extinguished by the prior foreclosure action.

IT IS ORDERED that the order of the circuit court is summarily affirmed. *See* WIS. STAT. RULE 809.21.

Diane M. Fremgen
Clerk of Court of Appeals