



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215

P.O. BOX 1688

MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880

TTY: (800) 947-3529

Facsimile (608) 267-0640

Web Site: www.wicourts.gov

DISTRICT IV

November 14, 2024

To:

Hon. Tania M. Bonnett
Circuit Court Judge
Electronic Notice

Miranda Christensen
Clerk of Circuit Court
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Patricia C. Lonzo
Electronic Notice

Michael S. Oellerich
Electronic Notice

Michael James De La Rosa
c/o Michael De La Rosa
6918 Meffert Road
Waunakee, WI 53597

Jana G. Jimenez
S7415 Western Ave.
North Freedom, WI 53951

John Doe Jimenez
S7415 Western Ave.
North Freedom, WI 53951

You are hereby notified that the Court has entered the following opinion and order:

2023AP1858

MidFirst Bank v. Jana G. Jimenez (L.C. # 2023CV119)

Before Blanchard, Graham, and Nashold, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Michael De La Rosa appeals two orders denying his request to obtain an interest in property. 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 (2021-22).¹ We affirm.

This case began in August 2023, when MidFirst Bank filed a mortgage foreclosure complaint regarding property owned by defendant Jana Jiminez. Shortly thereafter, De La Rosa made two filings in the circuit court that are relevant to this appeal.

First, De La Rosa filed a letter asking the circuit court to “Fully Remove ... Jiminez of Any and All Rights to the Property.” He argued that he was entitled to that relief based on events that occurred in the separate Sauk County divorce proceeding between himself and Jiminez. The court entered an order denying the requested relief on September 19, 2023. The order stated: “Matter was litigated in Sauk Co. 20FA139 and court concluded divorce decree was enforceable & due to his not refinancing w/in 12 months, property was to be sold. Parties agreed they were aware of foreclosure possibility.”

Second, De La Rosa filed a form entitled “Claim Against Estate” and a “Motion for Hearing and Acquisition of Property in Foreclosure.” The circuit court entered an order denying these requests, stating: “1. Defendant [sic] is not a party to the action in [this case number]. 2. Claim against estate applies to probate matter. Ms. Jiminez is not deceased and there is no estate at issue.” This order was also entered on September 19, 2023.

¹ All references to the Wisconsin Statutes are to the 2021-22 version.

De La Rosa appealed these orders. In his brief on appeal, he argues that the divorce decree was fraudulent, and he seeks transfer of a quitclaim deed, correction of the Sauk County divorce decree, and acquisition of the property at issue in the foreclosure case.

In response, MidFirst first argues that the September 19 orders are not appealable as a matter of right under WIS. STAT. § 808.03(1) for two reasons.

First, MidFirst notes that WIS. STAT. § 808.03(1) allows appeals from only judgments or orders that dispose of the “entire matter in litigation as to one or more parties.” MidFirst argues that De La Rosa cannot appeal because he is not a party to the circuit court case.

This argument is not persuasive because the circuit court effectively treated De La Rosa as a party when it issued a substantive decision on at least one of his requests for relief. In the absence of a motion to intervene, the court could have declined to rule on the substance of these requests. However, when the court issued a substantive denial on the merits, De La Rosa became, in practical effect, an intervening party. MidFirst does not explain how the circuit court had authority to issue a substantive decision on De La Rosa’s request for relief if it was not treating De La Rosa as a party.

The internally inconsistent nature of MidFirst’s position is evident in its brief, which states: “The circuit court *appropriately denied the requests* because De La Rosa is not a party, meaning the court has no personal jurisdiction over him and *the requests were not properly before the court for determination.*” (Emphasis added.) The inconsistency is that, if De La Rosa’s requests were not properly before the circuit court for determination, we would not have a basis to affirm the orders, as MidFirst requests.

Second, MidFirst argues that the September 19 orders do not dismiss or adjudge the entire matter in litigation as to one or more parties. We disagree. De La Rosa raised two matters, and the circuit court denied both of them. These orders disposed of the entire matter in litigation as to De La Rosa.

As to the substance of De La Rosa's divorce-related claim regarding the property, the circuit court denied that claim because it was already litigated in the divorce case. On appeal, De La Rosa does not dispute the conclusion that the issue was already litigated. Nor does he develop an argument explaining how any relief of the type he requests could properly be granted in the context of this foreclosure action. Accordingly, we affirm the denial of De La Rosa's requests.

IT IS ORDERED that the orders appealed from are summarily affirmed under WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals