

**COURT OF APPEALS
DECISION
DATED AND FILED**

May 24, 2007

David R. Schanker
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2006AP3074-FT

Cir. Ct. No. 2006CV36

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

DALE B. MEYER, MARY ANN MEYER AND RANDY A. MEYER,

PLAINTIFFS-RESPONDENTS,

V.

**GOOITSKE DIJKSTRA F/K/A GOOITSKE DEVRIES-KLOOSTERMAN A/K/A
GOOITSKE KLOOSTERMAN-DEVRIES AND WIJBE DIJKSTRA,**

DEFENDANTS-APPELLANTS,

**STATE OF WISCONSIN DEPARTMENT OF WORKFORCE DEVELOPMENT
AND JAN PIETER DEVRIES,**

DEFENDANTS.

APPEAL from a judgment of the circuit court for Clark County:
JON M. COUNSELL, Judge. *Affirmed.*

Before Dykman, Higginbotham and Bridge, JJ.

¶1 PER CURIAM. Gooitske Dijkstra and Wijbe Dijkstra appeal a strict foreclosure judgment on a land contract. The issue is whether the trial court properly added an \$81,000 judgment against Gooitske’s ex-husband to what the Dijkstras must pay to redeem the foreclosed property. We conclude that the court properly exercised its equitable authority, and we therefore affirm.

¶2 In 2002, Dale, Mary and Randy Meyers agreed to sell a farm to Gooitske and her then husband, Jan Peter DeVries, by land contract. Gooitske divorced DeVries in 2003, and he conveyed his interest in the farm to Gooitske by quit claim deed in 2005. Gooitske then transferred her interest in the farm to her new husband, Wijbe.

¶3 In February 2006, the Meyers commenced this foreclosure action. They subsequently obtained and docketed an \$81,000 judgment against DeVries on a debt related to the farm’s operation while DeVries owned it, but not related to the land contract for the farm. Nevertheless, the Meyers asked that the Dijkstras’ redemption amount include this \$81,000. The court granted their request after concluding that it would be equitable to do so.

¶4 “An action for strict foreclosure of a land contract is an action in equity.” *Milbrandt v. Huber*, 149 Wis. 2d 275, 289, 440 N.W.2d 807 (Ct. App. 1989). The court may provide an equitable remedy in its discretion. *See Mulder v. Mittlestadt*, 120 Wis. 2d 103, 115, 352 N.W.2d 223 (Ct. App. 1984). The trial court properly exercises its discretion if it applies the appropriate law and the record shows there is a reasonable factual basis for its decision. *See Burkes v. Hales*, 165 Wis. 2d 585, 590, 478 N.W.2d 37 (Ct. App. 1991).

¶5 Under WIS. STAT. § 806.15(1) (2005-06)¹ judgment liens attach to property that the judgment debtor owns when judgment is entered, or subsequently purchases within ten years. On appeal the Dijkstras contend that this provision protects them from any obligation to pay the judgment against DeVries in order to redeem the farm, because the Meyers did not obtain their judgment against DeVries until after he quitclaimed his interest in the farm. In their view, if no valid lien attached to the property, the trial court exceeded its equitable authority by essentially enforcing one.

¶6 WISCONSIN STAT. § 806.15(1) does not protect the Dijkstras from the trial court's decision on redemption. A statute does not limit a court's equitable authority absent a "clear and valid" legislative command. *Harvest Savings Bank v. ROI Investments*, 228 Wis. 2d 733, 739, 598 N.W.2d 571 (Ct. App. 1999) (citation omitted). Section 806.15(1) contains no express nor implied limit on the court's use of its equitable powers. The trial court's remedy therefore remained within its discretion, even if that remedy enforced in equity a lien that could not be statutorily enforced. Because the Dijkstras only argue the scope of the court's authority, and do not challenge the factual or equitable bases for the decision, we affirm without considering those issues.

By the Court.—Judgment affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5.

¹ All references to the Wisconsin Statutes are to the 2005-06 version unless otherwise noted.

