

**COURT OF APPEALS
DECISION
DATED AND FILED**

April 12, 2011

A. John Voelker
Acting 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. 2010AP1852

Cir. Ct. No. 2009CV995

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

**MERLE C. NIELSEN AND MAXINE P. NIELSEN, INDIVIDUALLY AND
AS TRUSTEES OF THE NIELSEN FAMILY REVOCABLE TRUST DATED
JANUARY 18, 2005,**

PLAINTIFFS-RESPONDENTS,

v.

DONALD P. JACKELN, SR.,

DEFENDANT-APPELLANT,

**THOMAS L. JACKELN, BRENDA L. SMITH AND MICHAEL C.
MANTEUFEL,**

DEFENDANTS.

APPEAL from a judgment and an order of the circuit court for St. Croix County: HOWARD W. CAMERON, JR., Judge. *Affirmed in part and reversed in part.*

Before Hoover, P.J., Peterson and Brunner, JJ.

¶1 PER CURIAM. Donald Jackelen appeals those portions of a judgment and order holding him liable for a deficiency judgment following foreclosure of a land contract. Because we agree with Donald that the assignment of the land contract to him was invalid, we reverse the judgment and order to the extent they hold him liable for the deficiency.

BACKGROUND

¶2 On May 19, 2004, Merle and Maxine Nielsen sold property on a land contract to Thomas Jackelen and Brenda Smith. The same day the land contract was executed, Thomas and Smith attempted to assign their interest in the property to Thomas's brother, Donald, by executing an "Assignment of Land Contract." It is undisputed that Donald did not sign the assignment.

¶3 Between May 2004 and April 2009, Donald made the payments required by the land contract. After Donald stopped paying, the Niensens sued for foreclosure, alleging that Donald, Thomas, and Smith were all responsible for the land contract's remaining balance.¹ Following a bench trial, the circuit court granted a judgment of foreclosure against all three defendants. The court subsequently ordered that Donald be responsible for any deficiency judgment following a sheriff's sale of the property. Donald appeals, arguing he cannot be held responsible for the deficiency judgment because the assignment of the land contract to him was invalid.

¹ An amended complaint named Michael Manteufel as a defendant due to a dispute over an easement. The Niensens' claim against Manteufel is not relevant to this appeal.

DISCUSSION

¶4 Donald argues the assignment was invalid because he did not sign it, and it therefore violates the statute of frauds.² Whether a document complies with the statute of frauds is a question of law that we review independently. *See First Bank v. H.K.A. Enters., Inc.*, 183 Wis. 2d 418, 423, 515 N.W.2d 343 (Ct. App. 1994).

¶5 The statute of frauds applies to “every transaction by which any interest in land is created, aliened, mortgaged, assigned or may be otherwise affected in law or in equity.” WIS. STAT. § 706.001(1).³ Transactions under § 706.001 are not valid unless evidenced by a conveyance that is “signed by or on behalf of all parties, if a lease or contract to convey.” WIS. STAT. § 706.02(1)(e). The Nielsens apparently concede that § 706.02(1)(e) required Donald to sign the assignment. Consequently, because Donald did not sign, the assignment is invalid.

¶6 The Nielsens point out that, under WIS. STAT. § 706.04, “[a] transaction which does not satisfy one or more of the requirements of s. 706.02 may be enforceable in whole or in part under doctrines of equity,” provided certain requirements are met. However, the Nielsens do not present a developed argument that the statutory requirements to enforce the assignment in equity have

² Donald also contends the assignment was invalid because the Nielsens did not consent to it in writing, as required by the land contract. Because we conclude the unsigned assignment violated the statute of frauds, we do not address Donald’s written consent argument. *See State v. Castillo*, 213 Wis. 2d 488, 492, 570 N.W.2d 44 (1997) (appellate courts not required to address every issue raised when one issue is dispositive).

³ All references to the Wisconsin Statutes are to the 2009-10 version unless otherwise noted.

been met. The Nielsens do not explain whether “[t]he deficiency of the conveyance may be supplied by reformation in equity,” whether “[Donald] would be unjustly enriched if enforcement of the transaction were denied,” or whether “[Donald] is equitably estopped from asserting the deficiency.” See WIS. STAT. § 706.04(1)-(3). We need not address undeveloped arguments. See *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992).

By the Court.—Judgment and order affirmed in part and reversed in part. Costs to Donald Jackelen.

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

