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DISTRICT IV

March 8, 2018

To:

Hon. John D. Hyland
Circuit Court Judge
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Madison, WI 53703

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Daniel G. Jardine
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You are hereby notified that the Court has entered the following opinion and order:

2017AP305

Cenlar FSB v. Daniel G. Jardine (L.C. # 2015CV589)

Before Lundsten, P.J., Sherman and Kloppenburg, 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).

Daniel Jardine appeals a judgment of foreclosure, entered after the circuit court granted summary judgment in favor of Cenlar FSB. Based upon our review of the briefs and the record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2015-16).¹ We summarily affirm.

Cenlar is the holder of a promissory note executed by Jardine and secured by a first mortgage on his residence. Cenlar obtained a foreclosure judgment against Jardine in Dane

¹ All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

County Circuit Court Case No. 2012CV2669. After the judgment was entered, Jardine requested a reinstatement amount from Cenlar's counsel. Cenlar informed Jardine by letter that, should \$32,817.32 be paid before July 1, 2014, the foreclosure action would be dismissed. The letter further stated, "You will be responsible to reimburse our client if it pays other taxes, insurance or other miscellaneous expenses allowed by law." Jardine paid \$32,817.32 on June 30, 2014. The foreclosure judgment was vacated in Case No. 2012CV2669 on July 8, 2014.

Cenlar sent Jardine an annual escrow account disclosure statement, also dated July 8, 2014, informing Jardine that the escrow account maintained for real estate taxes and insurance premiums on his residence was in arrears. The statement provided that Jardine's new loan payment amount would be increasing beginning September 1, 2014, due to the escrow shortage.

Jardine concedes that he did not make the increased payment in September 2014 or in subsequent months. Cenlar informed Jardine by letter that he was in default under the terms of the note and mortgage and that he had thirty days to cure the default. Jardine did not make payment in response to the letter. Cenlar then accelerated the indebtedness and initiated a second foreclosure action against Jardine. The summary judgment of foreclosure entered against Jardine in the second foreclosure action is the subject of this appeal.

This court reviews summary judgment decisions de novo, applying the same methodology and legal standard employed by the circuit court. *Palisades Collection LLC v. Kalal*, 2010 WI App 38, ¶9, 324 Wis. 2d 180, 781 N.W.2d 503. The legal standard is whether there are any material facts in dispute that entitle the opposing party to a trial. *Lambrecht v. Estate of Kaczmarczyk*, 2001 WI 25, ¶24, 241 Wis. 2d 804, 623 N.W.2d 751.

Jardine argues that the circuit court should not have found him in default of the promissory note and that Cenlar is barred under the doctrine of accord and satisfaction from seeking increased monthly payments from him, after he already paid \$32,817.32 to reinstate his mortgage. Beyond conclusory assertions, however, Jardine fails to develop his argument by applying the elements of accord and satisfaction to the specific facts in the record. This court need not consider arguments that either are unsupported by adequate factual and legal citations or are otherwise undeveloped. See *Dieck v. Unified Sch. Dist. of Antigo*, 157 Wis. 2d 134, 148 n.9, 458 N.W.2d 565 (Ct. App. 1990) (unsupported factual assertions); *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (undeveloped legal arguments). Here, Jardine has failed to develop his arguments legally or to support them factually. Therefore, we affirm the circuit court on that basis.²

IT IS ORDERED that the judgment is summarily affirmed under WIS. STAT. RULE 809.21(1).

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

Sheila T. Reiff
Clerk of Court of Appeals

² Although we are rejecting Jardine’s accord and satisfaction argument as undeveloped and will not analyze it further, we wish to draw attention to the assertion in Cenlar’s brief that the circuit court “properly found that no ‘accord and satisfaction’ was created between the parties related to the 2014 reinstatement payment.” This assertion is not supported by the record and is not an accurate representation of the circuit court’s findings. Nowhere in the decision and order granting summary judgment or in the judgment of foreclosure does the circuit court address the issue of accord and satisfaction.