



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 II

August 15, 2018

To:

Hon. James G. Poulos
Circuit Court Judge
P.O. Box 1986
West Bend, WI 53095

Michael Alan Gilman
Dykema Gossett PLLC
10 S. Walker Dr., Ste. 2300
Chicago, IL 60606

Theresa Russell
Clerk of Circuit Court
Washington County Courthouse
P.O. Box 1986
West Bend, WI 53095-1986

Lori Christine Dohrmann
4340 N. 142nd St.
Brookfield, WI 53005

Wayne Cyril Sedlak
4340 N. 142nd St.
Brookfield, WI 53005

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

2017AP2346

Deutsche Bank Trust Company Americas
v. Lori Christine Dohrmann (L.C. #2010CV1730)

Before Neubauer, C.J., Reilly, P.J., and Hagedorn, J.

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).

Lori Christine Dohrmann and Wayne Cyril Sedlak (appellants) appeal, pro se, from the circuit court's order confirming the sale of property following the entry of a judgment of foreclosure and from the circuit court's denial of their motion to reconsider. Appellants challenge the confirmation order on the grounds that the judgment of foreclosure was void as a result of fraud. 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 (2015-16).¹ We affirm.

The issues appellants raise on appeal arise entirely from a judgment of foreclosure entered against them. The Bank² filed a foreclosure complaint on December 9, 2010, for failing to make the contractual payments as required. Appellants filed an answer denying that the Bank had standing, that appellants had “any alleged indebtedness relationship” with the Bank, that appellants ever executed a mortgage with the Bank or received consideration for a loan, and asserting that “[t]he alleged true and correct copy of Mortgage, Note and assignment ... respectfully do not contain the signatures of [appellants].”

The Bank moved for summary judgment and judgment of foreclosure, and appellants filed an affidavit and a voluminous opposition to the Bank’s motion, reiterating their above arguments, alleging that the Bank committed “fraud upon [the] Court,” and requesting that discovery proceed to allow an expert to testify on appellants’ behalf. The circuit court granted summary judgment to the Bank, concluding that the appellants’ arguments and submissions were “general denials” that were not sufficient to defeat the Bank’s properly supported motion and did not demonstrate a genuine issue of fact. Appellants submitted a motion for reconsideration,

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

² Aurora Loan Services, LLC (Aurora) filed the original complaint in this case. On March 31, 2014, Aurora filed an assignment of judgment and rights to Nationstar Mortgage, LLC (Nationstar) and petitioned the court to substitute Nationstar for Aurora, which the court granted. On August 3, 2017, Nationstar filed an assignment of judgment and rights to Deutsche Bank Trust Company Americas As Trustee For Residential Accredit Loans, Inc., Mortgage Asset-Backed Pass-Through Certificates, Series 2007-QH2 (Deutsche Bank) and petitioned the court to substitute Deutsche Bank for Nationstar as plaintiff. For clarity, we will refer throughout to the creditor in this case as “the Bank.”

asserting the same allegations of fraud, lack of standing, and insufficient discovery. The circuit court entered the judgment of foreclosure on February 3, 2012.³

On March 20, 2012, appellants filed a notice of appeal from the judgment of foreclosure—forty-six days after entry of the final judgment. On May 25, 2012, we dismissed the appeal, concluding that we lacked appellate jurisdiction for two reasons: (1) WIS. STAT. § 805.17(3) applies only to motions for reconsideration after a bench trial, not a case resolved on summary judgment, *Continental Cas. Co. v. Milwaukee Metro. Sewerage District*, 175 Wis. 2d 527, 533, 499 N.W.2d 282 (Ct. App. 1993); and (2) no appeal right existed from the denial of the appellants’ motion for reconsideration as there was no new argument offered, *Silverton Enters., Inc. v. General Cas. Co.*, 143 Wis. 2d 661, 665, 422 N.W.2d 154 (Ct. App. 1988).

On August 9, 2017, the sheriff sold the property. Appellants filed their first objection to the confirmation of the sale, asserting fraud in the sheriff’s sale, “illegal activities” of the Bank, violation of WIS. STAT. § 403.302(1)(a), falsified documents, and wrongful foreclosure. The Bank filed a motion for an order to confirm the judicial sale, and appellants filed a second objection to confirmation asserting similar allegations. The circuit court entered an order confirming the sale on October 5, 2017.

On October 13, 2017, appellants filed a motion to reconsider. In the motion, appellants challenged the entry of the judgment of foreclosure, faulting the court for failing to “allow[] [the

³ Appellants also filed an objection to the proposed order and judgment of foreclosure and motion to reverse the judgment, claiming that the decision to forgo a trial was error, and a “motion to move the court for ... objection to the proposed order and judgment of foreclosure and motion to reverse the judgment.” The court denied both motions, construing both motions as “nothing more than a motion for reconsideration” containing “nothing new ... no newly discovered evidence.”

case] to proceed to discovery and to be Tried by the Trier of Facts.” By order, the court denied appellants’ motion to reconsider, explaining that the purpose of the confirmation hearing was to determine if the bid was for a fair value and “[t]here is [nothing] new in the Motion to Reconsider. It does not raise anything which would alter the court’s original decision to confirm the sale.” Appellants appeal.

We affirm the circuit court’s confirmation of the judicial sale and denial of appellants’ motion to reconsider.⁴ Appellants’ briefings to this court focus entirely on “whether the court had the legal foundation to move forward in the Confirmation of the Sale of the house”—i.e., the judgment of foreclosure. Appellants mount all manner of attacks on the judgment of foreclosure, arguing that the Bank forged appellants’ signatures and that the court denied appellants a jury trial and violated Wisconsin law, just to name a few. Appellants err in their failure to discuss matters pertinent to the confirmation of the sale, which is the order before us on appeal.⁵

⁴ The Bank argues that appellants failed to file a timely notice of appeal from the confirmation order. Under WIS. STAT. § 808.04, “[a]n appeal to the court of appeals must be initiated within 45 days of entry of a final judgment or order appealed from if written notice of the entry of a final judgment or order is given within 21 days of the final judgment or order” The order confirming the sale and the notice of entry of judgment were both entered on October 5, 2017. Appellants were required by statute to file their notice of appeal on or before November 20, 2017; appellants filed the notice of appeal on November 29, 2017. Further, appellants’ motion to reconsider did not extend the appeal window. *See Continental Cas. Co. v. Milwaukee Metro. Sewerage Dist.*, 175 Wis. 2d 527, 532-35, 499 N.W.2d 282 (Ct. App. 1993). Even if the appellants’ motion to reconsider an order confirming the sale could extend the appellate deadline, the motion must ask that the court “amend its findings or conclusions or make additional findings or conclusions.” *See* WIS. STAT. § 805.17(3). Here, appellants do not challenge the issues determined at the confirmation hearing—“whether fair value was bid for the subject premises.”

⁵ To the extent appellants are requesting that the circuit court or this court construe their numerous motions challenging the foreclosure judgment as motions under WIS. STAT. § 806.07, we decline to do so. If appellants seek relief from the judgment of foreclosure under § 806.07(1)(c) for “fraud, misrepresentation, or other misconduct” of the Bank, the motions were not timely. *See* § 806.07(2). If appellants seek relief from this court pursuant to our equitable powers, we find no support in the record for the finding that this is such an exceptional case. *See Walker v. Tobin*, 209 Wis. 2d 72, 77-78, 568 N.W.2d 303 (Ct. App. 1997).

“The order confirming the sale, though a part of the foreclosure action, is distinct from the judgment of foreclosure and sale.” *Shuput v. Lauer*, 109 Wis. 2d 164, 171, 325 N.W.2d 321 (1982). “[T]he judgment of foreclosure and sale is a final judgment appealable as a matter of right ... which must be appealed within the time prescribed by statute.... [T]he order confirming the sale is a final order appealable of right ... and ... an appeal from the order enables the appellant to challenge the proceedings *subsequent* to the judgment of foreclosure and sale, *not the judgment itself.*” *Id.* at 172 (emphasis added). As variously stated by our courts, the central inquiry at a confirmation hearing is whether the bid price was so inadequate as to shock the conscience as a matter of law and whether it represented fair value. *See First Wis. Nat’l Bank v. KSW Invest., Inc.*, 71 Wis. 2d 359, 362-63, 238 N.W.2d 123 (1976). A decision to confirm a sale following a foreclosure is vested in the broad discretion of the circuit court. *See id.* at 363.

Appellants fail to develop any argument challenging confirmation of the sale or the fair value of the property. We will not develop an argument for them. *See State v. Pettit*, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992) (stating that we will not address arguments inadequately briefed). Appellants had their day in court on the foreclosure judgment; they failed to provide evidence sufficient to create a material question of fact challenging summary judgment on the foreclosure and had the opportunity to prosecute a direct appeal. Appellants present no challenge to the confirmation of the sale on appeal, seeking only a do-over of the original judgment of foreclosure, and no right to appeal exists from a denial of a motion for reconsideration that presents the same issues as those determined in the order or judgment sought to be reconsidered. *See Marsh v. City of Milwaukee*, 104 Wis. 2d 44, 46, 310 N.W.2d 615 (1981); *Ver Hagen v. Gibbons*, 55 Wis. 2d 21, 26, 197 N.W.2d 752 (1972). We affirm the orders of the circuit court.

IT IS ORDERED that the orders of the circuit court are summarily affirmed pursuant to WIS. STAT. RULE 809.21.

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

Sheila T. Reiff
Clerk of Court of Appeals