

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1140**

Molina Investment Group, LLC,
Respondent,

vs.

Well #4, LLC,
Appellant,

John Doe, Mary Roe, individuals whose true names are unknown,
Defendants.

**Filed April 21, 2025
Affirmed
Schmidt, Judge**

Ramsey County District Court
File No. 62-HG-CV-24-1646

Kevin S. Sandstrom, Keith A. Marnholtz, Eckberg Lammers, P.C., Stillwater, Minnesota
(for appellant)

Kelly Vince Griffitts, Griffitts Law Offices, PLLC, Lake Elmo, Minnesota (for respondent)

Considered and decided by Johnson, Presiding Judge; Schmidt, Judge; and Reilly,
Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

SCHMIDT, Judge

In this eviction action, appellant Well #4, LLC (Well), challenges the district court's decision to issue a writ of recovery of the premises and order to vacate, removing it as the tenant of real property. Because Well's only defenses pertain to an underlying foreclosure and are outside the scope of the eviction proceeding, we affirm.

FACTS

The property at issue is a water well structure in Saint Paul. A third-party owned the property and leased it to Well. The third-party defaulted on its mortgage. After foreclosure, respondent Molina Investment Group, LLC, (Molina) took title to the property.

Molina thereafter filed a complaint to evict Well from the property. Well answered the complaint and raised two affirmative defenses: that it was not served with proper notice of the foreclosure sale and that the foreclosure sale was not properly advertised. Well requested a jury trial under Minnesota Statutes section 504B.335(b) (2024).

The district court held a hearing on Molina's eviction-action complaint. The district court continued the matter for two weeks to give Well an opportunity to file a parallel civil action to litigate the validity of the foreclosure. The district court noted that the eviction action would be consolidated with the foreclosure action if Well filed a civil action.

Well filed the parallel civil action to challenge the mortgage foreclosure. Well also filed a motion in the eviction action to consolidate the civil lawsuit with the eviction case.¹

¹ Once Well filed the parallel civil action, the record does not suggest that Well moved to stay the eviction proceeding. See *Bjorklund v. Bjorklund Trucking, Inc.*, 753 N.W.2d 312,

At the second hearing in the eviction action, Molina noted that it would agree to a temporary restraining order (TRO) on a writ of recovery, pending resolution of the parallel civil action. Well argued that a TRO was unnecessary because Molina was not entitled to a writ of recovery. The district court neither addressed Well's defenses, nor ruled on the motion to consolidate the two cases. Instead, at the conclusion of the hearing, the district court stated that it would issue the writ but stay issuance for one week to allow Well to "bring a TRO in district court outside of housing court." The next day, the district court filed an order stating that it would issue the writ "after 1 week."

Five days after the district court filed its order, Well filed this appeal and moved for the district court to stay the writ pending appeal. The district court granted the motion.

DECISION

Well argues that the district court erred by issuing a writ of recovery because its defenses regarding the alleged foreclosure defects merit a jury trial. The parties characterize the district court's decision as a sua sponte grant of summary judgment. We agree with that characterization and analyze the district court's decision accordingly.

We review summary judgment decisions de novo. *Hanson v. Dep't of Nat. Res.*, 972 N.W.2d 362, 371 (Minn. 2022). We will affirm a grant of summary judgment if there are no genuine issues of material fact and the court properly applied the law. *Id.* at 371-72.

317-20 (Minn. App. 2008) (determining that district court abused its discretion by denying a motion to stay an eviction proceeding pending resolution of related civil action), *rev. denied* (Minn. Sept. 23, 2008).

An “eviction” is “a summary court proceeding to remove a tenant or occupant from or otherwise recover possession of real property by the process of law set out in [Chapter 504B of the Minnesota Statutes].” Minn. Stat. § 504B.001, subd. 4 (2024). Property owners can “recover possession by eviction when . . . any person holds over real property . . . after the expiration of the time for redemption on foreclosure of a mortgage.” Minn. Stat. § 504B.285, subd. 1(a)(1)(ii) (2024).

Eviction proceedings are “limited in scope.” *NY Props., LLC v. Schuette*, 977 N.W.2d 862, 865 (Minn. App. 2022). The sole question in an eviction matter is who holds “present possessory rights to the property.” *Fed. Home Loan Mortg. Corp. v. Mitchell*, 862 N.W.2d 67, 72 (Minn. App. 2015) (quotation omitted), *rev. denied* (Minn. June 30, 2015). Issues over “legal or equitable rights of ownership” are generally not litigated in an eviction action. *Id.* (quotation omitted).

Well argues that the district court erred by issuing the writ because issues of material fact exist as to whether Well received proper notice of the foreclosure sale. We disagree.

We previously determined that defects in an underlying foreclosure are outside the scope of an eviction action when a party can litigate the alleged defects in other proceedings. *See AMRESKO Residential Mortg. Corp. v. Stange*, 631 N.W.2d 444, 444-46 (Minn. App. 2001). In *AMRESKO*, two defendants to an eviction action counterclaimed and raised issues with an underlying foreclosure, including that they did not receive notice of the foreclosure sale. *Id.* at 444-45. The district court dismissed the counterclaims as outside the scope of the eviction proceeding, and afterward, the defendants “commenced a separate proceeding . . . to set aside [the plaintiff’s] foreclosure.” *Id.* at 445. On the day

of trial in the eviction action, without a motion, the district court granted the plaintiff summary judgment, but stayed the writ of recovery. *Id.* On appeal, we upheld the district court’s dismissal of the counterclaims, reasoning that there was “no evident reason to interfere with the summary nature” of the eviction proceeding when the defendants could use the separate lawsuit to resolve the alleged foreclosure defects. *Id.* at 445-46.

We conclude that *AMRESCO* controls. In its answer, Well’s defenses alleged foreclosure defects. At the conclusion of the first hearing, the district court continued the proceeding for two weeks to give Well an opportunity to file a separate civil action regarding the foreclosure. Well did so. After the second hearing, the district court dismissed Well’s counterclaims and determined that a writ of recovery was warranted. The district court stayed issuance of the writ for one week to allow Well to seek injunctive relief in its parallel civil action. Well did not do so. Instead, Well filed this appeal.

This situation is nearly identical to *AMRESCO* and the result must be the same. *Id.* at 445-46. Because Well could separately litigate the validity of the foreclosure in its parallel civil action, the district court had no reason to disrupt the summary nature of the eviction proceeding based on the grounds presented.¹ *Id.* Well’s arguments about the alleged foreclosure defects did not create genuine issues of fact that were material to the eviction action because they were outside the scope of the proceedings. *Id.*

Affirmed.

¹ Well argues the district court should have granted the motion to consolidate the eviction action with his civil lawsuit. We are not persuaded that the failure to rule on the motion to consolidate is an error on appeal, especially when the district court provided Well with an opportunity to enjoin the writ of recovery pending the outcome of the civil action.