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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-1873**

RedStar Capital, LLC,
Respondent,

vs.

James F. Rex,
Appellant,

John Doe and Jane Roe,
individuals whose true names are unknown to Plaintiff,
residing at 8521 Palomino Drive,
Apple Valley, Minnesota 55124,
Defendants.

**Filed December 9, 2008
Affirmed
Ross, Judge**

Dakota County District Court
File No. C2-07-14602

Richard M. Carlson, 7241 Ohms Lane, Suite 275, Edina, MN 55439; and

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Bloomington, MN 55420 (for respondent)

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(for appellant)

Considered and decided by Johnson, Presiding Judge; Ross, Judge; and Larkin,
Judge.

UNPUBLISHED OPINION

ROSS, Judge

This appeal concerns James Rex's eviction from his home. Rex appeals the district court's entry of summary judgment against him in an eviction proceeding initiated by RedStar Capital, LLC. The district court granted summary judgment because it held that RedStar had established a prima facie case of its right to possess the property and because the defenses Rex asserted may not be brought in an eviction proceeding if they can be raised in a separate action. Because the district court correctly determined that Rex's defenses could have been brought only in a separate action, we conclude that it did not err by granting summary judgment, and we affirm.

FACTS

In early 2007, the holder of the mortgage to James Rex's house foreclosed and then bought the property at the sheriff's sale. Rex did not redeem during the statutory redemption period. On the first day for creditor redemption permitted by statute, RedStar Capital, LLC, redeemed. The next day, RedStar instituted proceedings to evict Rex from the house.

RedStar had allegedly become Rex's creditor by acquiring an interest in a judgment against him from Caberallo, LLC, which acquired the judgment from Cooper Firearms of Montana. RedStar moved for summary judgment on the ground that its certificate of redemption was sufficient evidence to determine its right to possess the property by eviction. Rex resisted, asserting that RedStar's redemption was flawed. He argued that because RedStar did not obtain a valid lien on the property, its redemption

was void. The district court granted summary judgment to RedStar, concluding that RedStar's certificate of redemption constituted "prima facie evidence that all requirements of the law were complied with" and that because eviction proceedings are limited to the question of possession, Rex's challenge to the validity of the certificate must be brought only in a separate action. Rex appeals.

D E C I S I O N

Rex contests the district court's entry of summary judgment in RedStar's favor. We review summary judgment for errors in the application of the law and for whether there are any genuine issues of material fact. *Osborne v. Twin Town Bowl, Inc.*, 749 N.W.2d 367, 371 (Minn. 2008). We review the district court's application of law de novo. *Id.*

Rex raises a legal challenge to undisputed facts. In his answer to the eviction proceeding, in his opposition to summary judgment, and in this appeal, Rex asserts that RedStar did not properly redeem. The district court found itself "bound by the summary nature of eviction proceedings," and it concluded that because Rex "has an outlet to raise his counterclaims and equitable defenses" outside of the eviction proceeding, he must bring them only in a separate action. Rex argues that the district court should have considered his defenses in the eviction proceeding. We agree with the district court.

Evictions are intended to be summary proceedings to efficiently adjudicate only a single issue—the present right to possess real property. Minn. Stat. § 504B.001, subd. 4 (2006) (defining eviction); *see also Univ. Cmty. Props., Inc. v. Norton*, 311 Minn. 18, 21–22, 246 N.W.2d 858, 860 (1976) (referring to the unlawful detainer statutes replaced

by the present eviction statutes); *Fraser v. Fraser*, 642 N.W.2d 34, 40 (Minn. App. 2002) (explaining the analogy between the former unlawful detainer statutes and the present eviction statutes). Defendants in an eviction action may not bring certain counterclaims and equitable defenses as defenses in an eviction proceeding, a restriction that preserves the summary and expedited nature of eviction proceedings. *Amresco Residential Mortg. Corp. v. Stange*, 631 N.W.2d 444, 445–446 (Minn. App. 2001). In *Amresco*, this court determined that an occupier could not raise equitable counterclaims pertaining to breach of the mortgage contract in response to an eviction complaint. *Id.* In so concluding, we first determined that the parties resisting eviction had a viable alternative means to raise the claims they attempted to assert as eviction counterclaims. *Id.* at 445. We limited the holding of *Amresco* “to the title-related counterclaims and defenses presented.” *Id.* at 446. But we stated the broader proposition directly in *Fraser*: “[O]nly if the eviction action presents the only forum for litigating . . . claims would it be appropriate for the district court to entertain them in that action.” *Fraser*, 642 N.W.2d at 41.

RedStar argued that because Rex has alternative means of asserting his defenses, they may not be raised in the eviction action, and the district court agreed. Rex contends that no cause of action other than the eviction proceeding would allow him to assert the claims he makes as defenses. The district court offered suggestions to contradict Rex’s contention. It offered, for example, that Rex could file a notice of lis pendens and pursue a mortgage foreclosure action under Minn. Stat. §§ 325N (2006) or 580.20 (2006). Rex argues that neither option would provide a basis to challenge RedStar’s certificate of redemption. His argument has limited merit. Minnesota Statutes chapter 325N regulates

the conduct of mortgage foreclosure consultants. Minnesota Statutes section 580.20 describes when an action to set aside a foreclosure sale may be brought. Neither appears to provide an avenue for Rex to challenge the validity of RedStar's redemption.

Rex acknowledges a possible alternative in Minnesota Statutes section 559.01, which permits "[a]ny person in possession of real property" to bring an action against an adverse claimant. But Rex asserts that this potential action vanished when the district court granted summary judgment to RedStar. We conclude that this alternative action was available for Rex to raise the claims he presents in his defense to the eviction.

Proof of possession of real property is prima facie evidence in an action to determine adverse claims regarding possession, even if the possessor does not have valid legal title. *Wilder v. City of St. Paul*, 12 Minn. 192, 198, 12 Gil. 116, 122 (1866). Throughout the month-long eviction proceeding, Rex possessed the property. When RedStar prevailed in the eviction action more than a year ago, the district court granted Rex a stay of his eviction pending this appeal. As possessor of the property, Rex had an alternative action available under section 559.01 to challenge RedStar's redemption. Following *Amresco's* reasoning, we hold that the district court did not err when it refused to consider Rex's defenses in the eviction proceeding. *See Real Estate Equity Strategies, LLC v. Jones*, 720 N.W.2d 352, 359 (Minn. App. 2006) (concluding that when a party failed "to exercise other apparently available options" an eviction action may proceed).

Rex argues that *Hanson v. Woolston*, 701 N.W.2d 257 (Minn. App. 2005), *review denied* (Minn. Jul. 26, 2005), limits application of *Amresco*. We are not persuaded. In *Hanson*, this court permitted the defendants in an unlawful detainer action to attack

collaterally a judgment and certificate of redemption. *Id.* at 267. But in *Hanson*, the parties resisting the judgment *did* bring their challenge in a separate action. *Id.* at 261. *Hanson* therefore supports the premise that a party facing eviction has standing to challenge the evicting plaintiff's certificate of redemption and underlying judgment in a separate action. *Id.* at 261–62. Because the district court correctly applied *Amresco* when it refused to consider Rex's defenses and because RedStar's certificate of redemption was sufficient evidence of its right to prevail in the eviction action, we affirm.

Affirmed.