

STATE OF MICHIGAN
COURT OF APPEALS

WINDSOR REALTY & INVESTMENT
CORPORATION and RHONDA LAGARDE,

UNPUBLISHED
July 27, 2006

Plaintiffs-Appellants,

v

No. 267417
Wayne Circuit Court
LC No. 05-512868-CH

DEUTSCHE BANK NATIONAL TRUST
COMPANY and WAYNE PANEK,

Defendants-Appellees,

and

THOMAS D. MCELGUNN,

Defendant.

Before: Neff, P.J., and Bandstra and Zahra, JJ.

PER CURIAM.

Plaintiffs Windsor Realty & Investment Corporation and Rhonda LaGarde appeal as of right the trial court's order granting summary disposition in favor of defendants Deutsche Bank National Trust Company (Deutsche Bank) and Wayne Panek under MCR 2.116(C)(7). The trial court ruled that plaintiffs' action to quiet title was barred because of an earlier district court action involving the same property. We affirm.

Deutsche Bank previously brought an action in the 36th District Court, *Deutsche Bank Nat'l Trust Co v Hooper*, LC No. 04-316886-NP, to resolve a dispute involving a land contract. Larry Hooper was the vendee on the contract, but plaintiffs claimed that Hooper executed a quitclaim deed and a warranty deed conveying the property to them. The district court gave plaintiffs an opportunity to present evidence to support their claims, but they failed to appear at the hearing convened for this purpose. The district court determined that Hooper's conveyances to plaintiffs were not authorized because he failed to obtain Deutsche Bank's approval as required by the land contract, that Hooper retained his rights to the property, and that he still owed money on the land contract.

Plaintiffs subsequently filed this action to quiet title. Panek, who also claimed to have received a deed from Hooper, moved for summary disposition under MCR 2.116(C)(7) and

argued that plaintiffs' action was barred by collateral estoppel. The trial court granted summary disposition in favor of Panek and Deutsche Bank.

We review de novo a trial court's decision on a motion for summary disposition. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999). Summary disposition under MCR 2.116(C)(7) is appropriate where a claim is barred because of prior judgment.

Plaintiffs argue that the trial court improperly granted summary disposition on the basis of collateral estoppel because the district court lacked subject-matter jurisdiction to determine issues involving title to the property and the validity of the deed from Hooper to plaintiffs. However, plaintiffs' argument is not preserved because it was not raised in their response to Panek's motion for summary disposition. See *Charbeneau v Wayne Co Gen Hosp*, 158 Mich App 730, 733; 405 NW2d 151 (1987). Moreover, plaintiffs advised the trial court that the issue of ownership could have been raised in the district court action, thus implying that the district court had jurisdiction to decide the issue. An appellant cannot contribute to an error and then argue error on appeal. *Bloemsma v Auto Club Ins Ass'n (After Remand)*, 190 Mich App 686, 691; 476 NW2d 487 (1991).

In any event, the district court's jurisdiction was based on MCL 600.8302(3), which states:

In an action under chapter 57, the district court may hear and determine an equitable claim relating to or arising under chapter 31, 33, or 38 or involving a right, interest, obligation, or title in land. The court may issue and enforce a judgment or order necessary to effectuate the court's equitable jurisdiction as provided in this subsection, including the establishment of escrow accounts and receiverships.

An action to quiet title is equitable in nature. *Killips v Mannisto*, 244 Mich App 256, 258; 624 NW2d 224 (2001). To the extent plaintiffs presented the issue of their rights under the deeds to the district court in the context of the action under MCL 600.5701 *et seq.*, the court had jurisdiction to determine the issue pursuant to MCL 600.8302(3).

We affirm.

/s/ Janet T. Neff
/s/ Richard A. Bandstra
/s/ Brian K. Zahra