If this opinion indicates that it is "FOR PUBLICATION," it is subject to revision until final publication in the Michigan Appeals Reports.

STATE OF MICHIGAN

COURT OF APPEALS

ERVIN JOSEPH LAMIE, Plaintiff-Appellant,	UNPUBLISHED October 09, 2026 8:49 AM
v	No. 376446 Muskegon Circuit Court
SCOTT PROBST, Defendant-Appellee.	LC No. 2024-005643-CH

Before: KOROBKIN, P.J., and RICK and MALDONADO, JJ.

PER CURIAM.

In this quiet title action, plaintiff, Ervin Joseph LaMie, appeals as of right the trial court's order dismissing the action sua sponte under MCR 2.116(I)(1) and MCR 2.116(C)(7) finding that it was an improper collateral attack on the judgment rendered in a different case in the 60th District Court, *Comerica Bank v Probst*, Case No. 24059106LT. We affirm.

I. BACKGROUND

On April 5, 2019, defendant, Scott Probst, secured a loan from Chase Bank by mortgaging the property located at 3705 S. Dangle Rd. Muskegon, Michigan 49444 to secure the loan. Later that year, Chase Bank sold the mortgage to Comerica Bank. At some point, Probst defaulted on the mortgage and Comerica initiated a nonjudicial foreclosure proceeding.[1] Later a sheriff's sale was held at which Comerica bought the property and obtained a sheriff's sale deed. Probst failed to redeem the mortgage within the redemption period; accordingly, Comerica filed a complaint to recover possession of the property in the 60th District Court. This proceeding was *Comerica Bank v Probst*, Case No. 24059106LT (hereinafter *Comerica* case). Comerica filed the complaint against Probst, as well as generally against any occupant of the property. LaMie admitted to being an occupant of the property in the *Comerica* case.

[1] A nonjudicial foreclosure sale is also referred to as a foreclosure of mortgage by advertisement. The procedures and requirements for such a sale are set forth in MCL 600.3201, *et seq*.

After the summary proceedings to recover possession were initiated, on June 25, 2024, LaMie filed in the register of deeds a commercial lien against the property in the amount of $109,491.30. This occurred more than six months after Comerica obtained the Sheriff's Deed to the property and about one month after Comerica initiated suit to recover possession of the property. According to LaMie and Probst, this lien stemmed from an agreement in September 2022. Under the agreement, if Probst did not pay $5,700 per month for use of equipment supplied by LaMie to clean up and develop the property, Probst would convey his interest in the property to LaMie.

On November 4, 2024, the district court granted Comerica possession of the property and summary disposition of all remaining claims in the *Comerica* case. Shortly after, in December 2024, LaMie filed the present action for quiet title against Probst, and Probst admitted to every allegation in LaMie's complaint. Notably, LaMie did not name Comerica in his initial complaint.

On January 28, 2025, LaMie recorded an "Affidavit of Expungement" against the property which, according to LaMie and Probst, expunged Comerica's Sheriff's Deed and reverted the title of the property back to Probst. The same day, Probst—who had no legal or equitable interest in the property because of the Sheriff's Deed to Comerica—executed and recorded a Quit Claim Deed transferring title to the property to LaMie.

On January 31, 2025, LaMie appeared at a motion hearing in the *Comerica* case. At that hearing, he informed the trial court about his liens on the property, the expungement affidavits, the quit claim deed, and the fact that he "now owns" the property not Comerica. Comerica's attorney argued that this matter had already been adjudicated on the merits and that LaMie did not have standing to challenge the foreclosure because he was not "a former mortgagor." The *Comerica* court refused to hear LaMie's claims that he owned the property stating that it was an issue "beyond" its jurisdiction.[2] Eventually, the *Comerica* case was closed.

On March 12, 2025, LaMie and Probst filed a consent judgment that provided that Probst consented to assigning his rights to the property at issue as payment in full for the contract with LaMie. The trial court did not enter the consent judgment. Instead, it notified LaMie and Probst of its intent to dismiss the action because it determined that the action was an impermissible collateral attack on the judgment entered in the *Comerica* case. LaMie objected to the dismissal, but the trial court found LaMie's objection to be without merit and dismissed the action. This appeal follows.

II. ANALYSIS

On appeal, both LaMie and Probst argue that the trial court's dismissal was improper and that the consent judgment should have been entered. We disagree because the trial court properly dismissed the present case because it was an impermissible collateral attack on the judgment

[2] Under MCL 600.2932, any person who claims any right in, title to, equitable title to, interest in, or right to possession of land may bring an action in the *circuit courts* against any other person who claims or might claim any interest inconsistent with the interest claimed by the plaintiff.

rendered on November 4, 2024, in *Comerica Bank v Probst*, and there was no argument that the district court lacked jurisdiction in that case.

Generally, we review "a trial court's decision whether to enter a consent judgment for abuse of discretion." *Clohset v No Name Corp*, 302 Mich App 550, 558; 840 NW2d 375 (2013). "An abuse of discretion occurs when the trial court chooses an outcome falling outside the range of principled outcomes." *Id*. (quotation marks and citations omitted). However, we review de novo a trial court's decision to grant summary disposition sua sponte under MCR 2.116(I)(1). *Wilcox v Wheatley*, 342 Mich App 551, 555; 995 NW2d 594 (2022). See also *AK Steel Holding Corp v Dep't of Treasury*, 314 Mich App 453, 462; 887 NW2d 209 (2016). We also review de novo issues of statutory interpretation and application. *Anderson v Myers*, 268 Mich App 713, 714; 709 NW2d 171 (2005). "De novo review means that we review the legal issue independently and without deference to the trial court." *Wilcox*, 342 Mich App at 555. See also *Wright v Genesee Cnty*, 504 Mich 410, 417; 934 NW2d 805 (2019).

"[A] collateral attack occurs whenever a challenge is made to a judgment in any manner other than through a direct appeal." *People v Howard*, 212 Mich App 366, 369; 538 NW2d 44 (1995). And "[i]t is well-established in Michigan that, assuming competent jurisdiction, a party cannot use a second proceeding to attack a tribunal's decision in a previous proceeding[.]" *Workers' Compensation Agency Dir v MacDonald's Indus Prod, Inc (On Reconsideration)*, 305 Mich App 460, 474; 853 NW2d 467 (2014). Rather than an impermissible collateral attack, a party aggrieved by a decision in an earlier proceeding should pursue an appeal within the context of that proceeding. *In re Ind Mich Power Co*, 329 Mich App 397, 406; 942 NW2d 639 (2019).

As discussed, Comerica initiated a nonjudicial foreclosure of Probst's property. In a nonjudicial foreclosure, after the property is purchased at a sheriff's sale, the mortgagor (in this case Probst) has the ability to redeem the property within the statutory redemption period. *Federal Home Loan Mortgage Corp v Werme*, 335 Mich App 461, 473-474; 966 NW2d 729 (2021). If the mortgagor fails to exercise the right of redemption, then "all the mortgagor's rights in and to the property are extinguished, and the mortgagor does not have standing to bring any claim related to the property absent clear proof of fraud or irregularity." *Id*. at 474 (quotation marks and citations omitted). In addition, after the redemption period expires, "the sheriff's deed becomes operative and vests in the purchaser at the sheriff's sale 'all the right, title, and interest in the property,' including the right to possess the property." *Id*., quoting MCL 600.3236. To effectuate possession, "the deed holder must seek possession of the premises through summary proceedings under MCL 600.5714. . . ." *Id*.

Consistent with the outlined process, Comerica purchased the property at the sheriff's sale, Probst did not exercise his right of redemption, and Comerica properly sought possession of the premises by filing a complaint for possession in the *Comerica* case. And, on November 4, 2024, the district court in that case entered a judgment granting Comerica possession of the property and summary disposition of all remaining claims.

It is clear that the parties initiated the present case in an attempt to relitigate issues resolved not only by the November 4, 2024 judgment, but also by several motions to set aside the judgment, and in a subsequent case filed by Probst. In effect, LaMie and Probst are attempting to challenge the nonjudicial foreclosure proceeding that took place in November 2023 and assert that LaMie is

entitled to ownership of the property. To do so, the parties rely on various liens filed *after* Comerica received "all the right, title, and interest in the property" and *after* Comerica filed suit for possession. Moreover, they rely on several expungement affidavits and a quit claim deed filed *after* the Sheriff's Deed became operative and Comerica was awarded possession of the property. As evidenced by LaMie's appearance and arguments at the January 31, 2025 motion hearing in the *Comerica* case, the exact same issues that were argued at that hearing are argued here. Specifically, LaMie argued that he owned the property at issue because of the alleged September 2022 agreement with Probst, as well as his liens, the expungement affidavits,[3] and the quit claim deed. There is simply no discernable difference between the arguments LaMie raised in the *Comerica* case and the arguments he raised in the underlying case and in this appeal.

There is no indication that LaMie appealed the decision in the *Comerica* case, beyond the various motions to set aside the judgment. Rather than appealing that judgment, LaMie and Probst sought to challenge it through a complaint to quiet title. This was a convoluted attempt to relitigate LaMie's supposed entitlement to the property at issue. The caselaw is clear, LaMie's ability to challenge the judgment in the *Comerica* case was limited to a direct appeal in that case. See *In re Ind Mich Power Co*, 329 Mich App at 406. LaMie had the opportunity to appeal the district court's order awarding Comerica possession of the property and summary disposition of the remaining claims, but LaMie failed to do so.[4]

As it is clear that this case is a collateral attack, the question remains whether the trial court properly found that it was impermissible.

A collateral attack may be permissible if challenging a void judgment, meaning the judgment was entered without personal jurisdiction or subject-matter jurisdiction. *Foster v Foster*, 509 Mich 109, 126; 983 NW2d 373 (2022). See also *Jackson City Bank & Trust Co v Fredrick*, 271 Mich 538, 544; 260 NW 908 (1935). "In other words, lack of subject-matter jurisdiction can be collaterally attacked, whereas the exercise of that jurisdiction can be challenged only on direct appeal." *Clohset*, 302 Mich App at 564 (quotation marks, citations, and brackets omitted).

Neither LaMie nor Probst argue that the *Comerica* court lacked such jurisdiction. There is no argument in LaMie's brief that can be reasonably construed as a jurisdictional argument. To the extent that a jurisdictional argument is raised in any attachments to LaMie's brief on appeal,

---

[3] Notably, this Court has clearly held that "a party cannot set aside a foreclosure sale simply through the unilateral filing of an expungement affidavit." *Wilmington Sav Fund Soc'y v Clare*, 323 Mich App 678, 687; 919 NW2d 420 (2018). Further, contrary to LaMie's understanding, the affidavits cannot legally create, destroy, or change a substantive interest in real property. See *id*. In other words, LaMie does not have any legal or equitable interest in the property at issue just because he filed several expungement affidavits.

[4] LaMie does not provide any indication that he was unable to appeal, or at minimum intervene, in the context of the same proceeding. On the contrary, it seems like LaMie was undoubtedly involved in the *Comerica* case. As discussed, Comerica filed a complaint against Probst and any occupant of the property, and LaMie admitted to being an occupant of the property. Further, LaMie argued in at least one hearing before the *Comerica* court.

the arguments have been abandoned as they were insufficiently briefed in this Court. See *Tripp v Baker*, 346 Mich App 257, 273; 12 NW3d 45 (2023) (holding that "[i]nsufficiently briefed issues are deemed abandoned on appeal").

Even if this argument was not abandoned, the argument that the district court lacked jurisdiction in the proceedings for possession of the property is without merit. Under MCL 600.5704, district courts have subject-matter jurisdiction "over summary proceedings to recover possession of premises." This is exactly what Comerica sought. Further, the district court had in rem jurisdiction over the property, which was located in Muskegon County within the jurisdiction of the 60th District Court. See MCL 600.8129 ("The sixtieth district consists of the county of Muskegon. . . ."). An action to determine the possessory interests in a property generally implicates in rem jurisdiction, rather than in personam jurisdiction, i.e., personal jurisdiction. *Detroit v 19675 Hasse*, 258 Mich App 438, 448-449, 450; 671 NW2d 150 (2003) (explaining that " 'In rem' proceedings encompass any action brought against person in which the essential purpose of suit is to determine title to or to affect interests in specific property located within territory over which court has jurisdiction.").

Accordingly, the district court in the *Comerica* case did not lack jurisdiction and a collateral attack of the district court's judgment was impermissible. *Foster*, 509 Mich at 126.[5]

Affirmed.[6]

/s/ Daniel S. Korobkin
/s/ Michelle M. Rick
/s/ Allie Greenleaf Maldonado

---

[5] To the extent that LaMie requests that this Court recognize that LaMie owns the property at issue and to "facilitate reinstatement of electrical service at the property," those issues are moot because the action is an impermissible collateral attack. *Garrett v Washington*, 314 Mich App 436, 449; 886 NW2d 762 (2016) ("A matter is moot if this Court's ruling cannot for any reason have a practical effect on the existing controversy."). "This Court does not decide moot issues." *Id*.

[6] We strongly caution the parties against filing meritless or frivolous proceedings. Under MCR 7.216(C)(1), this Court "may assess actual and punitive damages or take other disciplinary action when it determines that an appeal was vexatious," meaning the appeal was "without any reasonable basis for belief that there was a meritorious issue" or the case was "grossly lacking in the requirements of propriety, violated the court rules, or grossly disregarded the requirements of a fair presentation of the issues." Further, this Court may find a party who "persistently, and without reasonable cause" engages in such vexatious conduct to be a vexatious litigator and "impose filing restrictions on the party." MCR 7.216(C)(3).