MISSOURI COURT OF APPEALS
WESTERN DISTRICT

MARK STEVENSON,

Appellant

v.

MARY MAXWELL,

Respondent

DOCKET NUMBER WD82549

DATE: May 26, 2020

Appeal From:

Circuit Court of Boone County, MO
The Honorable Jodie C. Asel, Judge

Appellate Judges:

Division Three
Anthony Rex Gabbert, Presiding Judge, Edward R. Ardini, Jr., Judge, W. Douglas Thomson, Judge

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Attorneys:

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Counsel for Appellant

Attorneys:

Susan Ford Robertson, Kansas City, MO,
Counsel for Respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

MARK STEVENSON, Appellant,
v.
MARY MAXWELL, Respondent

WD82549 Boone County

Before Division Three Judges: Anthony Rex Gabbert, Presiding Judge, Edward R. Ardini, Jr., Judge, and W. Douglas Thomson, Judge

Mark Stevenson appeals the circuit court's judgment finding in favor of Mary Maxwell on Stevenson's November 3, 2015, Petition alleging Mary Maxwell defaulted on an April 8, 1998, promissory note and demanding immediate payment of the note balance and foreclosure of the Second Deed of Trust which secured the debt. Stevenson raises three points on appeal wherein he contends that: (1) the circuit court erred in finding Stevenson's claim time-barred because Wayne and Mary Maxwell ("the Maxwells" collectively) expressly acknowledged the existence of the debt and their intent to pay in full via three Chapter 13 bankruptcy plans, thereby reviving the debt pursuant to Section 516.320, RSMo, (2) the circuit court erred in finding Stevenson's claim time-barred, arguing the payments made to Stevenson by the bankruptcy trustees in connection with the Maxwells' bankruptcy cases acted to revive the debt and evidenced intent by the Maxwells to pay the debt, and (3) the circuit court erred in finding Stevenson's deed of trust extinguished by the doctrine of merger because the fee title to the property and the interest in the Second Deed of Trust never coincided in one person or entity.

AFFIRMED.

Division Three holds:

1. The circuit court did not err in finding Stevenson's claim time-barred because the Maxwells' Bankruptcy Plans represent insufficient acknowledgment of the debt under Section 516.320, as they were not prepared for Stevenson and do not reflect an unconditional, unqualified intent by the Maxwells to repay the loan.

2. The circuit court did not err in finding Stevenson's claim tie-barred because the payments made by trustees under the Maxwells' Bankruptcy Plans were not subscribed to by the Maxwells, and the payments do not evidence written acknowledgments of the Promissory Note debt sufficient to take the contract out of the statute of limitations in satisfaction of Section 516.320.

3. Because we find Stevenson's action on the Promissory Note barred by the statute of limitations, we need not address Stevenson's third point on appeal addressing whether Stevenson's Second Deed of Trust was extinguished by the doctrine of merger.

Opinion by: Anthony Rex Gabbert, Judge Date: May 26, 2020

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