STATE OF MICHIGAN

COURT OF APPEALS

CURTIS L. SYCK and SCARLETT LEE SYCK,

Plaintiffs-Appellants,

v

AMERCO REAL ESTATE COMPANY, a foreign corporation, d/b/a U-HAUL COMPANY OF DETROIT, INC,

Defendant-Appellee.

UNPUBLISHED
October 10, 1997

No. 198323
Wayne Circuit Court
LC No. 96-601765

Before: Bandstra, P.J., and Murphy and Young, JJ.

PER CURIAM.

Plaintiffs appeal as of right an order granting summary disposition in favor of defendant in this premises liability action. We affirm.

Plaintiffs argue that the trial court erred in finding that defendant did not have a duty to inspect their premises and protect plaintiffs from unreasonable risks of harm caused by dangerous conditions on its premises based on the open and obvious danger doctrine. We disagree. Whether a defendant owes any duty to a plaintiff in a particular circumstance is a question of law for the court to determine. *Schmidt v Youngs*, 215 Mich App 222, 224; 544 NW2d 743 (1996). Where no legal duty exists, the plaintiff has failed to state a claim upon which relief can be granted, and thus summary disposition for the defendant is appropriate pursuant to MCR 2.116(C)(8). *Id*. at 224-225. We conclude that defendant owed no legal duty to plaintiffs.

In a premises liability action, a landowner or occupier of land has the duty "'to exercise reasonable care to protect invitees from an unreasonable risk of harm caused by a dangerous condition of the land' that the landowner knows or should know the invitees will not discover, realize, or protect themselves against." *Bertrand v Alan Ford, Inc*, 449 Mich 606, 609; 537 NW2d 185 (1995). However, where the dangerous condition is known to the invitee or is so obvious that the invitee might reasonably be expected to discover it, the scope of duty owed by the landowner may be limited. *Id*. at 610; *Riddle v McLouth Steel Products Corp*, 440 Mich 85, 95-96; 485 NW2d 676 (1992); *Walker*

v Flint, 213 Mich App 18, 21; 539 NW2d 535 (1995). The reasoning behind the open and obvious danger doctrine is that invitors are not absolute

insurers of safety of their invitees. *Bertrand, supra* at 614; *Williams v Cunningham Drug Stores, Inc*, 429 Mich 495, 500; 418 NW2d 381 (1988). Still, the open and obvious doctrine does not relieve the landowner of the general duty of reasonable care. *Bertrand, supra* at 611. Our Supreme Court clarified a landowner's duty with regard to open and obvious dangers:

> [I]f the particular activity or condition creates a risk of harm *only* because the invitee does not discover the condition or realize its danger, then the open and obvious doctrine will cut off liability if the invitee should have discovered the condition and realized its danger. On the other hand, if the risk of harm remains unreasonable, despite its obviousness or despite knowledge of it by the invitee, then the circumstances may be such that the invitor is required to undertake reasonable precautions. [*Id*., emphasis in original.]

This case involves the former situation. In this case, plaintiff Curtis Syck bumped into a box on defendant's premises which contained a broken piece of glass that cut Syck's ankle. Syck admitted that he saw the box and was aware of the dangers that could result should a person walk into or otherwise come in contact with the box. In fact, realizing that the box was in this pathway, plaintiff parked his truck so as to avoid the box. Yet, when plaintiff got out of his truck and walked toward the tailgate, he bumped into the box. This case simply involves a plaintiff who did not watch where he was walking and consequently became injured. There is no "duty to prevent careless persons from hurting themselves." *Garrett v W S Butterfield Theaters, Inc*, 261 Mich 262, 264; 246 NW 57 (1933); see, also, *Bertrand, supra* at 615. Therefore, the trial court properly granted summary disposition in favor of defendant.

We affirm.

/s/ Richard A. Bandstra
/s/ William B. Murphy
/s/ Robert P. Young