

STATE OF MICHIGAN
COURT OF APPEALS

GERALD MANRING and MARY MANRING,

Plaintiffs-Appellees,

v

DALE R. TURNER,

Defendant-Appellant.

UNPUBLISHED
October 17, 1997

No. 193497
Jackson Circuit
LC No. 94-069754-CH

Before: Michael J. Kelly, P.J., and Reilly and Jansen, JJ.

PER CURIAM.

Defendant appeals as of right from a final judgment resolving a boundary dispute and quieting title in favor of plaintiffs. We affirm.

The parties own adjoining parcels of land in Jackson County, and share an east/west border approximately 248.75 feet long. The evidence presented at trial established that the parcels were once owned by a single owner, and when divided for sale, plaintiffs' predecessors in title were granted land in accordance with a metes and bounds description, whereas defendant's predecessors secured deeds containing a land description based on an untraceable 1840 village plat map. Consequently, the property descriptions found in the parties' deeds overlap.

Plaintiffs' metes and bounds description places their eastern property border at a $\frac{3}{4}$ inch gas pipe located nearly five feet west of defendant's gravel driveway. Surveys of the platted village lots, on the other hand, suggest that defendant's western boundary is approximately 132 feet west of the gas pipe. In resolving the dispute, the trial court applied the doctrine of acquiescence and determined that the gas pipe marked the true boundary between the parties' parcels. We agree.

The doctrine of acquiescence, and the policy behind it, have been clearly defined and explained in 12 Am Jur 2d, Boundaries, § 85, pp 620-621, as follows:

It is well established that if adjoining landowners occupy their respective premises up to a certain line which they mutually recognize and acquiesce in for a long period of time--usually the time prescribed by the statute of limitations--they are

precluded from claiming that the boundary line thus recognized and acquiesced in is not the true one. In other words, such recognition of, and acquiescence in, a line as the true boundary line, if continued for a sufficient length of time, will afford a conclusive presumption that the line thus acquiesced in is the true boundary line. This is a rule of repose for the purpose of quieting titles and discouraging confusing and vexatious litigation. . . .

. . . It involves more than a mere establishment of a line by one party and the taking of possession by him. There must be knowledge on the part of the other party of the establishment of the line and the taking of possession by the adjoining owner, and there must be assent thereto, and this may be shown by the conduct of the second party, by his words, or even by his silence.

Acquiescence may, of course, be shown by actual possession of the owners up to the line, or it may consist of acts or declarations recognizing the line over the necessary period. But the line acquiesced in must be known, definite, and certain, or known and capable of ascertainment.

Specifically, according to Michigan case law, the doctrine of acquiescence provides that, where adjoining property owners acquiesce to a boundary line for a period of at least fifteen years, that line becomes the actual boundary line. *McQueen v Black*, 168 Mich App 641, 644; 425 NW2d 203 (1988). Historically, our courts have stated the following concerning the establishment of a boundary line by acquiescence:

“While acquiescence alone is not a defense, if acquiescence follows the resolving of a doubt as to where the line is or the settlement of a bona fide controversy, which settlement agreement contemplates an agreed line, and the monuments of such line are fixed and maintained thereafter, such line so established and acquiesced in is the line, and the acquiescence need not continue for the statutory period; *likewise where the line is acquiesced in for the statutory period it is also fixed.*

“. . . [T]he acquiescence of predecessors in title can be tacked on that of the parties, and if the whole period of acquiescence exceeds 15 years, the line becomes fixed, *regardless of whether there had been a bona fide controversy as to the boundary.*” [*Jackson v Deemar*, 373 Mich 22, 26; 127 NW2d 856 (1964) (quoting *Johnson v Squires*, 344 Mich 687, 692; 75 NW2d 45 (1956)).]

Furthermore, Michigan supports the policy of maintaining continuity and discouraging community disruption of long relied upon property boundaries.

It has been repeatedly held by this Court that a boundary line long treated and acquiesced in as the true line, ought not to be disturbed on new surveys. Fifteen years’ recognition and acquiescence are ample for this purpose; and in view of the great difficulties which often attend the effort to ascertain where the original monuments were

planted, the peace of the community requires that all attempts to disturb lines with which the parties concerned have long been satisfied should not be encouraged. [*Johnson, supra*, 344 Mich 692 (citations omitted).]

Here, testimony was presented that the $\frac{3}{4}$ inch gas pipe identified by the lower court was specifically placed in the ground to serve as a boundary marker between the two properties when the triangular-shaped parcel now owned by defendant was originally purchased by a previous owner in 1952. The Danielses, defendant's predecessors in title, owned the parcel for approximately twenty-seven years, and throughout that time never disputed the accuracy of the gas pipe as marking the true western boundary of their property. Moreover, although the Danielses planted several trees approximately one hundred feet west of the gas pipe and often mowed the grass of the neighboring vacant lot up to the line of trees, they did so with the permission of the adjacent landowner and with no intention of claiming the land as their own. The Danielses, like subsequent owners of defendant's parcel, possessed as their own only the land up to the gas pipe.

From this evidence, we agree with plaintiffs and the trial court that the gas pipe was relied upon as the agreed property line between the two parcels for at least the fifteen-year statutory period, and should not now be disturbed.

Affirmed.

/s/ Michael J. Kelly
/s/ Maureen Pulte Reilly
/s/ Kathleen Jansen