STATE OF MICHIGAN

COURT OF APPEALS

BRYAN BYUNGSOO LEE and SANG RAN LEE,

Plaintiffs-Appellants,

v

DETROIT EDISON COMPANY,

Defendant-Appellee.

UNPUBLISHED
January 6, 1998

No. 200342
Oakland Circuit Court
LC No. 95-490819 CK

Before: MacKenzie, P.J., and Hood and Hoekstra, JJ.

MEMORANDUM.

Plaintiffs appeal as of right from summary disposition granted in favor of defendant on the ground of res judicata. This appeal is being decided without oral argument pursuant to MCR 7.214(E). We affirm.

In dismissing an effectually identical complaint against the same defendant, the Wayne Circuit Court ruled that Counts I and III through VI of plaintiffs' complaint were time barred, MCR 2.116(C)(7), and that dismissal as to Count II was based on lack of a genuine issue of material fact, MCR 2.116(C)(10). As that order of dismissal was not based either on lack of jurisdiction or failure to join a party under MCR 2.205, and the Wayne Circuit Court did not specify otherwise in its order for dismissal, that order operated as an adjudication on the merits. MCR 2.504(B)(3). Accordingly, the Oakland Circuit Court properly dismissed this action based on principles of preclusion. *Sherrell v Bugaski*, 169 Mich App 10, 13; 425 NW2d 707 (1988).

Affirmed.

/s/ Barbara B. MacKenzie
/s/ Harold Hood
/s/ Joel P. Hoekstra