

STATE OF MICHIGAN
COURT OF APPEALS

LOUIS DUCHENY, Personal Representative of the
Estate of WALLEN DUCHENY, Deceased,

UNPUBLISHED

Plaintiff-Appellee,

v

No. 194048

Antrim Circuit Court

DONALD KEITH GREEN, JR.,

LC No. 93-006094 CH

and

LOIS GREEN,

Defendant-Appellants.

Before: White, P.J. and Saad, and Markey, JJ.

WHITE, J. (concurring in part and dissenting in part).

I am troubled by aspects of the trial court's reasoning. For example, it is not surprising that the holder of a life estate would pay the taxes and expenses associated with the land, and that family members would request his permission to use the property and not the remainderman's. Nevertheless, primarily because of the evidence concerning the transfer of a portion of the property to Alan Little in 1985, I am unable to conclude that the trial court's findings on intent were clearly erroneous.

I dissent, however, from the affirmance of the award of sanctions. Although this was a bench trial, the motion for new trial was not frivolous. Defendants properly sought to demonstrate to the court why, in their view, its reasoning, as expressed in its written opinion, was flawed. I would reverse the award of sanctions.

/s/ Helene N. White