

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

MICHIGAN DEPARTMENT OF  
TRANSPORTATION,

UNPUBLISHED  
July 2, 1999

Plaintiff-Appellee,

v

No. 189707  
Oakland Circuit Court  
LC No. 93-460328 CC

NOVEL SAFOU, a/k/a NOUEL  
SAFOU and MARTHA SAFOU,

Defendants-Appellees.

ON REMAND

And

NATALIE, INC., d/b/a STOP AND SHOP,

Defendant-Appellant.

---

Before: MacKenzie, P.J., and Holbrook, Jr. and Cavanagh, JJ.

PER CURIAM.

This case involves the condemnation of a convenience store owned by defendants Safou and leased to defendant Natalie, Inc. Following a trial, the jury set the total value of the real estate at \$205,000 and, in an advisory opinion, allocated \$155,000 to the Safous as feeholders and \$50,000 to Natalie as leaseholder. The trial court entered a judgment reflecting those values. Natalie appealed, contending that the judgment improperly valued its leasehold. In an unpublished opinion per curiam issued May 30, 1997, this Court concluded that, while the valuation of the Safous' fee was within the range of testimony presented, the valuation of Natalie's leasehold was not. Accordingly, we affirmed the trial court's judgment to the extent that it valued the Safous' feehold interest at \$155,000. We vacated those portions of the judgment setting the value of the leasehold and, consequently, the overall value of the real estate, and remanded for new trial on the value of Natalie's leasehold. The Department of Transportation appealed this Court's decision. In an order entered September 9, 1998, the Supreme

Court, in lieu of granting leave, vacated our decision and remanded as on rehearing granted. *Dep't of Transportation v Safou*, 459 Mich 860-861 (1998).

In its order, the Supreme Court stated that this Court erred in vacating the \$205,000 overall value of the real estate. 459 Mich 861. We adhere to our conclusion in our prior opinion, that the allocation of the \$205,000 award was improper because the amount allocated for Natalie's leasehold was not within the range of the evidence. Accordingly, we now affirm the total award of \$205,000, vacate the allocated values of the parties' respective interests, and remand for a reallocation of the \$205,000 award between the Safous and Natalie that is within the range of the evidence that was presented at trial.<sup>1</sup>

Although the Supreme Court vacated our previous decision, it expressed no opinion with regard to our second holding, where we affirmed a verdict of \$0.00 to Natalie for alleged going-concern damages. That is understandable given the posture of the case before the Supreme Court. To avoid any confusion on remand, however, we again affirm the \$0.00 award for the reasons stated in our May 30, 1997 opinion.

Affirmed in part, vacated in part, and remanded for a reallocation of the \$205,000 award. We do not retain jurisdiction.

/s/ Barbara B. MacKenzie  
/s/ Donald E. Holbrook, Jr.  
/s/ Mark J. Cavanagh

<sup>1</sup> The testimony presented at trial regarding the valuation of Natalie's leasehold interest ranged from \$97,500 to \$108,000. Testimony regarding the valuation of the Safou's freehold ranged from \$47,000 to \$221,600.