

STATE OF MICHIGAN  
COURT OF APPEALS

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MARY PARSHALL,

Plaintiff-Appellee,

v

CHAMPION PROMOTIONS, INC., d/b/a  
CHANNEL MARKER,

Defendant-Appellant.

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UNPUBLISHED

August 6, 1999

No. 204126

Macomb Circuit Court

LC No. 96-003269 NO

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

PER CURIAM.

Defendant appeals by leave granted from the trial court's order denying its motion for summary disposition. We reverse and remand. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff and some friends went to the Channel Marker restaurant for lunch. The group was shown to a raised area containing booths. Each entrance to the area had one step which contained a light. In front of each step was tile of a different color. Signs were posted warning customers to "step up" or to "step down." Plaintiff, then aged seventy-five, successfully negotiated the step as she entered the booth area. Subsequently, when plaintiff attempted to leave the booth area, she took no more than a few steps, tripped on the step, and fell to the floor. The step on which plaintiff fell was at the opposite end of the booth area from which she had entered.

Plaintiff's complaint alleged that defendant failed to maintain reasonably safe walkways and to warn of dangerous conditions in the restaurant. Defendant moved for summary disposition pursuant to MCR 2.116(C)(10), arguing that the step was open and obvious, and would be discerned by any person paying reasonable attention. The trial court denied the motion, finding that issues of fact existed regarding the adequacy of the signage warning patrons of the step, the adequacy of the lighting, and the adequacy of the demarcation between the levels.

We review a trial court's decision on a motion for summary disposition de novo. *Harrison v Olde Financial Corp*, 225 Mich App 601, 605; 572 NW2d 679 (1997).

In *Bertrand v Alan Ford, Inc.*, 449 Mich 606; 537 NW2d 185 (1995), our Supreme Court held that steps are the type of everyday occurrence that people encounter. The risk of harm from steps is presumptively reasonable. Only if there is something “unusual” about the steps due to their “character, location, or surrounding conditions” does the duty of a premises owner to exercise reasonable care come into play. If the invitee is aware of the danger, the owner must take reasonable care only if the risk remains unreasonable. *Bertrand, supra*, at 611, 616-617.

Defendant argues that the trial court erred by denying its motion for summary disposition. We agree, and reverse the trial court’s decision. The copies of photographs attached to defendant’s motion for summary disposition and presented to the trial court clearly show the tile in front of the step and the light in the step. Plaintiff contended that the step was extremely close to the booth in which she was seated, and that she fell because she did not see the step. However, the evidence presented to the trial court established that tile of a different color was located in front of the step, and that light shone onto the tile. The *Bertrand* Court observed that steps are encountered as an everyday occurrence, and that a reasonably prudent person will watch where he or she is going and will take appropriate care for his or her own safety. *Bertrand, supra*, at 616. This is not a case in which the location, character, or condition of the step was such that even a reasonably prudent person could not protect himself or herself from harm. The trial court erred by denying defendant’s motion for summary disposition.

The trial court’s order denying defendant’s motion for summary disposition is reversed, and this case is remanded to the trial court for entry of an appropriate order. We do not retain jurisdiction.

/s/ Helene N. White

/s/ Jane E. Markey

/s/ Kurtis T. Wilder