STATE OF MICHIGAN

COURT OF APPEALS

EVA MARGARET VANNOLLER, Plaintiff-Appellant,	UNPUBLISHED October 12, 1999
v	No. 212500 Kent Circuit Court
RAMBLEWOOD LIMITED, d/b/a RAMBLEWOOD APARTMENTS, Defendant-Appellee.	LC No. 96-014193 NO

Before: Griffin, P.J., and Zahra and S.L. Pavlich*, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's order granting the motion for summary disposition filed by defendant. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff, a tenant of defendant, was walking her dog in a wooded common area when she tripped on an exposed root and fell to the ground, sustaining injuries. She filed suit, alleging that at the time of her injury she was walking within an outlined path created by defendant for her visually impaired husband. Plaintiff asserted that defendant breached its duty to maintain the walkway in a safe condition by allowing the exposed root to remain in place.

Defendant moved for summary disposition pursuant to MCR 2.116(C)(10), arguing that no evidence showed that it had prior notice of the condition of the root. The trial court granted defendant's motion, finding that a genuine issue of fact did not exist as to whether defendant had knowledge of the root in time to remove it before plaintiff was injured.

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).

* Circuit judge, sitting on the Court of Appeals by assignment.

Plaintiff argues that the trial court erred by granting defendant's motion for summary disposition. We disagree and affirm. A possessor of land has a duty to exercise reasonable care to protect an invitee from an unreasonable risk of harm caused by a dangerous condition on the

land. A possessor of land may be held liable for injuries resulting from negligent maintenance of the land. The duty to protect an invitee does not extend to a condition from which an unreasonable risk of harm cannot be anticipated, or from a condition that is so open and obvious that an invitee could be expected to discover it for himself. *Williams v Cunningham Drug Stores, Inc*, 429 Mich 495, 499-500; 418 NW2d 381 (1988). A possessor of land must have actual or constructive knowledge of an unsafe condition resulting from a cause other than his own active negligence. *Berryman v K-Mart Corp*, 193 Mich App 88, 92-93; 483 NW2d 642 (1992). Here, no evidence supported an inference that defendant knew or should have known of the existence of the root. Photographs taken by defendant's grounds supervisor on the day of the accident showed that the soil around the ends of the root had been freshly disturbed. From this evidence it could be inferred that plaintiff pulled the root out further when she tripped on it. Plaintiff's conclusion that the root was in the condition depicted in the photographs prior to the accident, and that defendant had actual or constructive knowledge of the dangerous condition, is based on speculation. Conjecture does not meet the burden of a party opposing a motion for summary disposition to establish that a genuine issue of fact exists. *McCune v Meijer, Inc*, 156 Mich App 561, 563; 402 NW2d 6 (1986).

Affirmed.

/s/ Richard Allen Griffin
/s/ Brian K. Zahra
/s/ Scott L. Pavlich