

STATE OF MICHIGAN
COURT OF APPEALS

CITY OF BOYNE CITY and DONNA M. MOLL,
Trustee under Trust Agreement dated November
1983, as amended,

UNPUBLISHED
November 30, 1999

Plaintiffs-Appellees,

v

ELMER F. CRAIN and CLARA M. CRAIN,

No. 212315
Charlevoix Circuit Court
LC No. 98-128818 CH

Defendants-Appellants.

Before: Jansen, P.J., and Hoekstra and J. R. Cooper*, JJ.

PER CURIAM.

Defendants appeal as of right the circuit court order granting plaintiffs' motion for summary disposition in this quiet title action. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff Donna Moll is the fee simple owner of a parcel of property in Charlevoix County, which she has agreed to sell to Boyne City to expand an industrial park. Defendants claimed an interest to an abandoned railroad right-of-way that crosses the property. Although defendants initially asserted that they acquired an ownership interest in the right-of-way from a deed obtained from the estate of Dennis Caughey, they have abandoned that claim. They continue to assert that they have a valid interest in the property by virtue of a tax redemption deed.

Defendants assert that the state acquired absolute title to the railroad right-of-way under MCL 211.67a; MSA 7.112(1) for nonpayment of taxes, and conveyed that absolute interest to defendants in a tax deed, pursuant to MCL 211.72; MSA 7.117. However, no tax sale of the property occurred, and defendants only obtained a redemption deed, rather than a tax deed. MCL 211.131c(4); MSA 7.190(1)(4) provides in relevant part:

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

A redemption deed issued pursuant to this section shall not be construed to vest in the grantee named in the deed any title or interest in the lands beyond that which he or she would have owned, had not title become vested in the state.

Here, defendants had no interest in the property which could be restored by the redemption deed. This result is consistent with a recent decision of this Court involving other railroad right-of-way property in which defendants claimed an interest. *Wright v Crain*, unpublished opinion per curiam of the Court of Appeals, issued 5/18/99 (Docket No. 205861). Here, plaintiffs presented evidence establishing the appropriate chain of title back to the original grantor. The trial court properly granted summary disposition to plaintiffs. *Ingle v Musgrave*, 159 Mich App 361; 406 NW2d 492 (1987).

Affirmed.

/s/ Kathleen Jansen

/s/ Joel P. Hoekstra

/s/ Jessica R. Cooper