

STATE OF MICHIGAN
COURT OF APPEALS

ANTOINETTE FATTORE,

Plaintiff-Appellee,

v

FATTORE CONSTRUCTION COMPANY,

Defendant-Appellant,

and

STEPHEN FATTORE, NANCY FATTORE,
ROCCO TAGLIONE, CATHERINE TAGLIONE,
and JOSEPH FATTORE,

Defendants.

UNPUBLISHED

June 13, 2000

No. 212587

Macomb Circuit Court

LC No. 97-004296-CH

Before: Hoekstra, P.J., and Holbrook, Jr., and Zahra, JJ.

PER CURIAM.

Defendant Fattore Construction Company (FCC) appeals as of right from the trial court's order granting summary disposition in favor of plaintiff Antoinette Fattore. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff's husband, Eugene Fattore, was a principal shareholder of FCC along with his brother Stephen Fattore. After Eugene Fattore died in 1983, plaintiff traded the shares in FCC she owned jointly with her husband, as well as shares in FCC she held in her own name, for a fifty percent interest in a parcel of land owned by FCC. The quitclaim deed was signed on behalf of FCC by Robert Fattore, FCC's treasurer and the son of Antoinette and Eugene. The deed was witnessed by Catherine Taglione, the daughter of defendants Stephen and Nancy Fattore.

After a dispute arose regarding ownership of the property, plaintiff filed suit to quiet title and to sell the property. Plaintiff moved for summary disposition pursuant to MCR 2.116(C)(10). As support for her claim of a fifty percent ownership in the property, plaintiff relied on the quitclaim deed, memoranda of interest acknowledging plaintiff's ownership, 1984 corporate minutes ratifying the actions

of FCC's officers and directors, and FCC's tax returns. In response, FCC argued that the quitclaim deed was not in recordable form, and was signed without authority by Robert Fattore. The trial court granted plaintiff's motion, finding that the documentary evidence overwhelmingly supported plaintiff's claim of a fifty percent ownership in the property. Subsequently, the court ordered the property to be marketed on behalf of plaintiff and FCC.

FCC argues that the trial court erred by granting plaintiff's motion for summary disposition. We disagree. This Court reviews decisions on motions for summary disposition de novo. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998).

A motion pursuant to MCR 2.116(C)(10) tests the factual basis underlying a plaintiff's claim. MCR 2.116(C)(10) permits summary disposition when, except for the amount of damages, there is no genuine issue concerning any material fact and the moving party is entitled to damages as a matter of law. A court reviewing such a motion must consider the pleadings, affidavits, depositions, admissions, and any other evidence in favor of the opposing party and grant the benefit of any reasonable doubt to the opposing party. [*Stehlik v Johnson (On Rehearing)*, 206 Mich App 83, 85; 520 NW2d 633 (1994).]

Contrary to FCC's assertion, the trial court did not improperly make findings of fact or weigh credibility in granting the motion. *Skinner v Square D Co*, 445 Mich 153, 161; 516 NW2d 475 (1994), reh den 445 Mich 1233; 521 NW2d 15 (1994). The trial court relied on documentary evidence submitted by plaintiff, including the quitclaim deed and the corporate minutes. A deed need not be in recordable form to be valid between the parties thereto. *Evans v Holloway Sand & Gravel, Inc*, 106 Mich App 70, 80, 82; 308 NW2d 440 (1981). Moreover, notwithstanding the fact that the transfer of the property to plaintiff was not specifically approved in the corporate minutes, the subsequent general ratification of all acts by officers and directors was sufficient to uphold the transaction. *Mahlen Land Corp v Kurtz*, 355 Mich 340, 355-356; 94 NW2d 888 (1959). FCC's unsubstantiated allegations regarding Robert Fattore's motivations do not serve to create an issue of fact regarding plaintiff's ownership interest in light of the existence of a valid deed the execution of which was authorized by the company's directors. Accordingly, we conclude that the trial court's grant of summary disposition in favor of plaintiff was proper.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Donald E. Holbrook, Jr.
/s/ Brian K. Zahra