

STATE OF MICHIGAN
COURT OF APPEALS

STUART DEVELOPMENT ENTERPRISES,
INC.,

UNPUBLISHED
October 26, 2001

Plaintiff-Appellant,

v

CHARLES S. MOULTHROP, JR.,

No. 224676
Ogemaw Circuit Court
LC No. 98-652308-CZ

Defendant-Appellee.

Before: Whitbeck, P.J., and Neff and Hoekstra, JJ.

PER CURIAM.

Plaintiff appeals as of right the judgment entered for defendant in this land dispute. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff brought this declaratory judgment action to determine its rights to an easement across defendant's land. Plaintiff purchased land on a land contract that provided for an easement for ingress and egress across the seller's remaining land. The easement followed an abandoned county road, and an existing trail road. Defendant purchased the remaining land through a bankruptcy auction. His deed reflected the same easement identified in the land contract.

The court found that the terms of the land contract were clear and unambiguous, and barred parol evidence as to the parties' intent regarding the scope of the easement. The court found the land contract was descriptive of the easement, and defined and limited the easement.

An easement is the right to use the land of another for a specific purpose. *Bowen v Buck & Fur Hunting Club*, 217 Mich App 191, 192; 550 NW2d 850 (1996). An easement grants the holder qualified possession only to the extent necessary for enjoyment of the rights conferred by the easement. *Schadewald v Brulé*, 225 Mich App 26, 35; 570 NW2d 788 (1997). Once granted, the owner of an easement cannot materially increase the burden or impose an additional burden on the servient estate. *Id* at 36.

The primary goal in the construction or interpretation of any contract is to honor the intent of the parties. *Rasheed v Chrysler Corp*, 445 Mich 109, 127, n 28; 517 NW2d 19 (1994). A court must look for the intent of the parties in the words used in the instrument. *UAW-GM Human Resource Center v KSL Recreation Corp*, 228 Mich App 486, 491; 579 NW2d 411

(1998). The court does not have the right to look to extrinsic evidence to determine the parties' intent when the words used are clear and unambiguous. *Id.*

The trial court did not err in excluding parol evidence of the parties' intent. The parol evidence rule excludes evidence of prior contemporaneous agreements, oral or written, which contradict, vary or modify an unambiguous writing intended as a final and complete expression of the agreement. *Ditzik v Schaffer Lumber Co*, 139 Mich App 81, 87-88; 360 NW2d 876 (1984).

The trial court did not err in finding the language of the land contract was clear and unambiguous. The contract language refers to an existing road and trail. According to testimony, the parties to the contract did not negotiate as to the extent or scope of the easement. There is no indication that the parties intended any usage other than that in existence at the time of the contract.

Affirmed.

/s/ William C. Whitbeck

/s/ Janet T. Neff

/s/ Joel P. Hoekstra