STATE OF MICHIGAN

COURT OF APPEALS

CLINTON CANADY JR.,

Plaintiff-Appellant,

v

COUNTRY CLUB OF LANSING,

Defendant-Appellee.

UNPUBLISHED
November 16, 2001

No. 224699
Ingham Circuit Court
LC No. 98-089426-NO

Before: Fitzgerald, P.J., and Hoekstra and Markey, JJ.

PER CURIAM.

Plaintiff appeals as of right the order granting summary disposition in favor of defendant pursuant to MCR 2.116(C)(10) in this premises liability case. We affirm.

On appeal, plaintiff contends that summary disposition was improperly granted because factual disputes exist regarding whether a wooden walkway on defendant golf course presented an open and obvious danger and whether the walkway presented an unreasonable risk of harm. We disagree.

A possessor of land is subject to liability for physical harm caused to his invitees by a condition on the land if, and only if, all of the following are true: the possessor (a) knows, or by the exercise of reasonable care would discover, the condition, and should realize that it involves an unreasonable risk of harm to such invitees, (b) should expect that they will not discover or realize the danger, or will fail to protect themselves against it, and (c) fails to exercise reasonable care to protect them against the danger. *Arias v Talon Development Group, Inc*, 239 Mich App 265, 266-267, 608 NW2d 484 (2000), quoting *Riddle v McLouth Steel Products Corp*, 440 Mich 85, 93, 485 NW2d 676 (1992). The corollary "open and obvious" rule is that if the particular activity or condition creates a risk of harm only because the invitee does not discover the condition and realize its danger, but should have, there is ordinarily no liability. *Bertrand v Alan Ford, Inc*, 449 Mich 606, 611, 537 NW2d 185 (1995).

Here, the open and obvious doctrine need not be examined to conclude that the trial court properly granted summary disposition to defendant. The logical starting basis of both *Riddle* and *Bertrand* is that the possessor of land can only be liable for injuries to an invitee resulting from some dangerous condition on the land. If no reasonable fact finder could conclude that such a dangerous condition existed, summary disposition is warranted without further review. If a condition is not dangerous, it is senseless to consider whether that condition is open and obvious.

Considering the evidence in a light most favorable to plaintiff, *Quinto v Cross & Peters Co*, 451 Mich 358, 362, 547 NW2d 314 (1996), no reasonable juror could have found that a dangerous condition on the land was involved here. To put it plainly, plaintiff did not encounter an unreasonably dangerous condition at the time of his fall; he encountered an ordinary wooden walkway. See, e.g., *Pais v City of Pontiac*, 372 Mich 582; 127 NW2d 386 (1964). Plaintiff argues that the wooden walkway was unreasonably dangerous because it becomes slippery when wet, particularly when golf shoes with soft spikes are worn. However, golf courses obviously are exposed to the elements, including rain, which may naturally accumulate on a course's landscape. A reasonably prudent person would be aware of these conditions and would take appropriate care for his or her own safety. See *Bertrand*, supra at 609. No reasonable juror could accept plaintiff's argument that the wooden walkway was unreasonably dangerous in light of the fact that most outdoor surfaces become slippery when wet and people generally approach wet surfaces cautiously, regardless of the type of shoes they are wearing. Indeed, the walkway had been used by patrons wearing soft spikes without incident from the time of defendant's implementation of the ban against golf shoes with metal spikes almost two years earlier. Plaintiff himself used the walkway on numerous damp or rainy occasions while wearing golf shoes with soft spikes. Plaintiff was appropriately prevented from proceeding to trial on a theory that the walkway presented an unreasonable risk of harm.[1]

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Joel P. Hoekstra
/s/ Jane E. Markey

[1] Plaintiff also contends that the trial court erred by granting summary disposition in favor of defendant on the ground that plaintiff assumed the risk of harm when deciding to play golf. A review of the transcript, however, reveals that the trial court did not grant summary disposition on this basis. Rather, the trial court granted summary disposition on the ground that the wooden walkway was not unreasonably dangerous.