

STATE OF MICHIGAN
COURT OF APPEALS

JOHN SWIDE and JOAN SWIDE,

Plaintiffs-Appellants/Cross-
Appellees,

v

VERLA J. LINTON,

Defendant-Appellee/Cross-
Appellant.

UNPUBLISHED

April 16, 2002

No. 223354

Bay Circuit Court

LC No. 97-003339-CH

Before: Sawyer, P.J., and Murphy and Hoekstra, JJ.

PER CURIAM.

Plaintiffs, John and Joan Swide, appeal as of right from a judgment quieting title in them but requiring them to pay certain amounts to defendant, Verla Linton. Defendant cross appeals by leave granted the order quieting title. We affirm the portion of the judgment that quiets title in plaintiffs, but reverse the award of damages to defendant.

Defendant ran an adult foster care home. One of her residents (now deceased) entered into an agreement with defendant whereby she would get title to his home in return for paying the back taxes and for providing adult foster care for his natural life. In conjunction with the agreement, the resident executed a quitclaim deed to defendant dated July 22, 1993. The agreement violated the rules governing owners of adult foster care facilities and eventually led to defendant's license being revoked. She did not record the quitclaim deed until March 6, 1997.

After the resident died on November 7, 1995, plaintiffs, his former neighbors, made a deal with his two nieces – his only surviving relatives – whereby plaintiffs would pay each niece \$1,000 and would pay the costs of probating his estate in exchange for quitclaim deeds on his home. The quitclaim deeds to plaintiffs were recorded on February 19, 1997 – two to three weeks before defendant's deed was recorded. The trial court quieted title in plaintiffs and credited them for the fair market rental during the time the home was occupied by defendant, but required plaintiffs to pay defendant for 1) the difference between what plaintiffs paid and what the court and plaintiffs deemed the property was worth, 2) the real estate taxes paid by defendant, and 3) the resident's funeral costs paid by defendant. This appeal followed.

Plaintiffs first argue that the trial court erred in ordering them to pay defendant for her expenditures in paying back taxes, the resident's funeral expenses, and for the "excess value" of

the property. Actions to quiet title are equitable; therefore, the trial court's holdings are reviewed de novo. *Killips v Mannisto*, 244 Mich App 256, 258; 624 NW2d 224 (2001). The factual findings of the trial court are reviewed for clear error. *Id.*

Actions to determine interests in land are governed by MCL 600.2932. This statute reads, in relevant part, as follows:

(1) Interest of plaintiff. Any person, whether he is in possession of the land in question or not, who claims any right in, title to, equitable title to, interest in, or right to possession of land, may bring an action in the circuit courts against any other person who claims or might claim any interest inconsistent with the interest claimed by the plaintiff, whether the defendant is in possession of the land or not.

* * *

(5) Actions equitable in nature. Actions under this section are equitable in nature.

Plaintiffs, who claimed that the property belonged to them, appropriately brought this suit to quiet title. The trial court, following the strictures of MCL 600.2932(5), sought to do equity. However, it ignored one of the primary tenants of equitable actions – the doctrine of “clean hands.” *Stokes v Millen Roofing Co*, 245 Mich App 44, 54; 627 NW2d 16 (2001). The clean hands doctrine closes the doors of a court of equity to a party tainted by inequitable conduct or bad faith relative to the matter for which equity is sought, however improper the behavior of the other party. *Id.* The doctrine is intended to protect the integrity of the court, and any willful act that transgresses equitable standards of conduct is sufficient cause to invoke the doctrine of clean hands. *Id.* at 55. To invoke the clean hands maxim

“one’s misconduct need not necessarily have been of such a nature as to be punishable as a crime or as to justify legal proceedings of any character. Any willful act concerning the cause of action which rightfully can be said to transgress equitable standards of conduct is sufficient cause for the invocation of the maxim by the chancellor.” [*Stachnik v Winkel*, 394 Mich 375, 386; 230 NW2d 529 (1975), quoting *Precision Instrument Manufacturing Co v Automotive Maintenance Machinery Co*, 324 US 806, 815; 65 S Ct 993; 89 L Ed 1381 (1944).]

Because the clean hands maxim is designed to preserve the integrity of the judiciary, this Court may apply it on its own motion even though it has not been raised by the parties or the courts below. *Stachnik supra* at 382.

Defendant should have been precluded from benefiting in any way from her transaction with her resident. Rules promulgated under the Adult Foster Care Facility Licensing Act, MCL 400.701 *et seq.*, prohibited defendant from engaging in financial transactions with the residents of her foster care facility, yet she did so anyway. As a result, the adult foster care licensing consultant investigated the transaction and, on the basis of that investigation, recommended that defendant’s license be revoked, which it was.

Even had the transaction not been prohibited by statute, however, the record makes it clear that defendant took advantage of her resident. She entered into an agreement to provide adult foster care for him in return for his agreement to relinquish his home to her even though she was already providing adult foster care in return for his monthly social security check. She obtained a quitclaim deed from him that recited consideration of \$15,000, but admitted that she paid him no more than a few hundred dollars. Because she came to the court with unclean hands, defendant should not have been entitled to any relief at equity. *Stokes, supra* at 55. It was error requiring reversal for the trial court to require plaintiffs to compensate her for her expenditures relative to the resident and his property.

Plaintiffs next argue that damages to defendant for the increased value of the home due to improvements she made should have been barred by the clean hands doctrine and by the rules set forth in MCR 3.411. However, the trial court actually awarded defendant the difference between the value of the home at the time plaintiffs acquired it and what plaintiffs actually paid for it, an error requiring reversal because any recovery by defendant should have been barred by the clean hands doctrine.

Both the court's opinion and order and the judgment make it clear that its award to defendant was based on the difference in value between what plaintiffs were willing to pay for the property and what they actually paid. In a quiet title action, a court acting in equity looks at the whole situation and grants or withholds relief as good conscience dictates. *Michigan National Bank, supra*, 194 Mich App at 410. It strains rationality for the trial court to have awarded defendant \$6,000 because plaintiffs thought the property was worth \$8,000 but were able to negotiate a deal with the resident's heirs whereby they would only have to pay \$2,000 plus the costs of probate. Defendant paid no more than a few hundred dollars to her resident for the property, so the \$6,000 award in her favor would constitute an undeserved windfall.

On cross appeal, defendant argues that the trial court should not have determined that her deed from the resident was voidable and should not have imposed a constructive trust on the property in favor of plaintiffs. We disagree.

Both of the issues raised by defendant in this section of her cross appeal can be answered with the same law. Constructive trust is an equitable remedy that the court may impose where the facts justify it. *In re Estate of Swantek*, 172 Mich App 509, 517; 432 NW2d 307 (1988). It is not necessary that petitioner seek that relief. *Id.* Constructive trusts are creatures of equity and their imposition makes the holder of the legal title the trustee for the benefit of another who in good conscience is entitled to the beneficial interest. *Id.*, citing *Arndt v Vos*, 83 Mich App 484, 487; 268 NW2d 693 (1978). Constructive trust is an appropriate remedy to prevent unjust enrichment of one who unlawfully deprives another of his property interest. *Id.* at 517.

Defendant's acquisition of the property was unlawful. Rules promulgated under the Adult Foster Care Facility Licensing Act, MCL 400.701 *et seq.*, prohibited her from engaging in financial transactions with the residents of her foster care facility, yet she did so. She was investigated and her AFC license revoked on the basis of her transaction. The record makes it clear that she took advantage of her resident. Allowing her to keep the property would have enriched her unjustly. Plaintiffs, on the other hand, proceeded in a lawful manner and are entitled to keep the property. The facts justify the imposition of a constructive trust in plaintiffs favor. *Estate of Swantek, supra* at 517.

Defendant next argues that her possession of a redemption certificate for her payment of back taxes vitiates the determination of the trial court. We disagree. This issue was not raised below, so this Court may review the record only for plain error. *Kern v Blethen-Coluni*, 240 Mich App 333, 335-336; 612 NW2d 838 (2000). To avoid forfeiture under the plain error rule, three requirements must be met: 1) the error must have occurred, 2) the error was plain, i.e., clear or obvious, 3) and the plain error affected substantial rights. *Id.*

A redemption certificate is merely “evidence of a redemption payment in the courts of this state.” MCL 211.74(3). One in possession of the certificate is a person claiming an interest in land entitled to bring a quiet title action under MCL 600.2932(1). As noted, the action is equitable in nature. MCL 600.2932(5). In an equitable action, a trial court should look at the whole situation and grant or withhold relief as good conscience dictates. *Republic Bank, supra* at 451. The trial court did so when it imposed a constructive trust over the property in favor of plaintiffs. There was no error on which this Court may predicate reversal.

The portion of the judgment quieting title in plaintiffs and awarding them fair market rental for the time of defendant’s possession is affirmed. The portion of the judgment awarding money damages to defendant is reversed. We remand to the trial court for entry of a new order in accordance with this opinion. We do not retain jurisdiction.

/s/ David H. Sawyer
/s/ William B. Murphy