

STATE OF MICHIGAN
COURT OF APPEALS

KAREN L. KING,

Plaintiff-Appellant,

v

GERRY MCGRATH,

Defendant-Appellee.

UNPUBLISHED

November 26, 2002

No. 236979

Monroe Circuit Court

LC No. 00-011630-NO

Before: Markey, P.J., and Saad and Smolenski, JJ.

MEMORANDUM.

Plaintiff appeals as of right the order granting defendant's motion for summary disposition in this slip and fall case. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff was injured when she slipped and fell on a snow-covered, icy sidewalk at defendant's home. The trial court found that the danger was open and obvious, and granted defendant summary disposition under MCR 2.116(C)(10).

A motion under MCR 2.116(C)(10) tests the factual sufficiency of the complaint. In evaluating the motion, the trial court considers affidavits, pleadings, depositions, admissions and other evidence submitted by the parties in a light most favorable to the party opposing the motion. Where the proffered evidence fails to establish a genuine issue of material fact, the moving party is entitled to judgment as a matter of law. *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999). This Court reviews de novo decisions on motions for summary disposition. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998).

At the time of the injury, plaintiff was living with defendant. A social guest is a licensee who assumes the ordinary risks associated with the visit. *Stitt v Holland Abundant Life Fellowship*, 462 Mich 591, 596; 614 NW2d 88 (2000). A landowner owes a licensee a duty to warn of any hidden dangers the owner knows or has reason to know of, if the licensee does not know or have reason to know of the dangers. The landowner owes no duty of inspection or affirmative care to make the premises safe for the licensee's visit. *Id.*

In *Joyce v Rubin*, 249 Mich App 231; 642 NW2d 360 (2002), the plaintiff was injured when she fell on a snow-covered sidewalk. This Court found that the open and obvious danger doctrine applies to cases involving both the duty to warn and the duty to maintain premises. *Id.*,

237. The defendant had no duty to remove an open and obvious danger where a reasonable person would have been able to discover the condition and the risk it presented. *Id.*, 238-239. A snowy sidewalk is not a special risk that gives rise to an unreasonably dangerous condition. *Id.*, 241.

Where the condition was open and obvious, plaintiff failed to establish that defendant breached a duty owed to her as a licensee. The trial court properly granted defendant's motion.

Affirmed.

/s/ Jane E. Markey

/s/ Henry William Saad

/s/ Michael R. Smolenski