

STATE OF MICHIGAN  
COURT OF APPEALS

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THE TOWNSHIP OF ALGANSEE,

Plaintiff-Appellee,

v

ROBERT DAVIS,

Defendant-Appellant,

and

GLORIA DAVIS,

Defendant.

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UNPUBLISHED  
February 17, 2004

No. 244331  
Branch Circuit Court  
LC No. 01-010741-CZ

Before: Schuette, P.J., and Meter and Owens, JJ.

MEMORANDUM.

Defendant Robert Davis appeals as of right the judgment for punitive damages in this zoning dispute. We reverse in part.

Plaintiff brought this action seeking to enjoin defendants from continuing work on house construction in violation of a stop work order, and to order defendants to remove the house or bring it into compliance with the zoning ordinance. The parties agreed to a partial resolution of the case, and submitted the issue of damages to the court. The court awarded plaintiff the \$6,548.67 in costs that it had incurred and imposed an additional punitive sanction of \$5,000 on defendants.

It is well established that generally only compensatory damages are available in Michigan and that punitive sanctions may not be imposed. *Rafferty v Markowitz*, 461 Mich 265, 270-271; 602 NW2d 367 (1999); *McAuley v General Motors Corp*, 457 Mich 513, 519-520; 578 NW2d 282 (1998). Plaintiff was fully compensated for all of its claimed costs in this matter.

Exemplary damages are recoverable as compensation and not as punishment. *McPeak v McPeak (On Remand)*, 233 Mich App 483, 490; 593 NW2d 180 (1999). An award of exemplary damages is proper if it compensates for the humiliation, sense of outrage, and indignity resulting from injustices maliciously, willfully, and wantonly inflicted upon the other party. *Id.* There is no showing that exemplary damages are warranted in this case.

While plaintiff argues that damages could be assessed for defendant's contempt, *Birkenshaw v Detroit*, 110 Mich App 500; 313 NW2d 334 (1981); *Catsman v Flint*, 18 Mich App 641; 171 NW2d 684 (1969), no finding of contempt was made, and there is no indication that defendant failed to comply with the court's orders. The court erred in awarding punitive damages.

The portion of the judgment for punitive damages is reversed, and it is otherwise affirmed.

/s/ Bill Schuette

/s/ Patrick M. Meter

/s/ Donald S. Owens