

STATE OF MICHIGAN
COURT OF APPEALS

WILLIAM A. BLANK,

Plaintiff-Appellant,

v

CITY OF GALESBURG, GALESBURG
PLANNING COMMISSION, GALESBURG
CITY COMMISSION, GEORGE R. WESTON,
DIANA SKIDMORE, R. LEROY
BOOMERSHINE, KAY FOX, JAMES
NICOLOW, DAVID WAYNE, DORIS WAYNE,
JAMES JACKSON, PHILIP ROELOF, GARY
ALLEN, JAMES CHAPIN, TERESA POST,
ROSALIE EMMONS, DONALD BOYER,
ROBERT O'BRIEN, BETHANY BRESSON,
JOHN DOES 1-50,

Defendant-Appellees,

and,

WILLIAM G. SCHMA,

Defendant.

UNPUBLISHED

May 13, 2004

No. 248230

Kalamazoo Circuit Court

LC No. 01-000578-CZ

Before: Gage, P.J., and O'Connell and Zahra, JJ.

PER CURIAM.

Plaintiff appeals of right the trial court's grant of summary disposition to defendants under MCR 2.116(C)(7). We affirm. Plaintiff's complaint accused defendants of conspiring to violate his constitutional rights by enforcing certain zoning ordinances against his property. The enforcement began roughly twenty-five years before plaintiff filed his suit and involved the change of his property from industrial to agricultural. The enforcement stemmed from a 1977 change of the zoning district from industrial to agricultural. Plaintiff's repeated failure to comply with zoning restrictions led to court orders and injunctions dating from 1983, and then to contempt of court and damages awards. In 1996, Kalamazoo Circuit Court Judge William G. Schma awarded defendant City of Galesburg \$9,100 in damages for plaintiff's failure to abate the nuisance on his property in accordance with previous court orders. Judge Schma placed a

lien on the property so that the city could execute the judgment and ordered plaintiff to pay the city \$100 a day until he complied.

On March 10, 2000, following more evidence of plaintiff's noncompliance, Judge Schma amended the lien to \$148,500. The city requested execution of the lien, and on November 8, 2001, the court ordered plaintiff to vacate the property so that the city could sell it and liquidate its judgment. Following a hearing where Judge Schma explained his ruling, but before the court issued its written order, plaintiff filed this suit.

Judge Schma was correctly dismissed as a defendant very early in the litigation. The remaining defendants moved for summary disposition based on the statute of limitations. They argued that plaintiff knew or should have known of any alleged conspiracy to violate his due process rights more than three years before he filed suit. While we find summary disposition appropriate on several grounds, we agree that plaintiff failed to file his suit before the statute of limitations period ran. We review de novo a trial court's decision to grant summary disposition. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999).

On appeal, plaintiff does not challenge the three-year limitations period that the trial court applied to his cause of action. Instead, he argues that the limitations period did not begin to run until September 23, 2001, because on that date the city again changed his land's zoning designation from agricultural to residential. Plaintiff does not argue that any other event started the limitations period running anew. Therefore, we are faced with the simple question of whether the 2001 change in zoning restarted the statute of limitations period.

The zoning change did not affect plaintiff's cause of action in any way because Judge Schma had already granted the city the full amount of the lien on March 10, 2000. Plaintiff's complaint does not mention the 2001 zoning change, and on appeal, he fails to demonstrate how it caused him any additional damage. Rather, the complaint reflects plaintiff's angst over his repeated defeat in several court battles with city and zoning authorities, beginning with the city's first nuisance complaint in 1979. Because neither plaintiff nor his issues were affected by the 2001 zoning change, it does not mark the appropriate time from which to start the limitations period running. *Moll v Abbott Laboratories*, 444 Mich 1, 28-29; 506 NW2d 816 (1993).

Affirmed.

/s/ Hilda R. Gage
/s/ Peter D. O'Connell
/s/ Brian K. Zahra