STATE OF MICHIGAN

COURT OF APPEALS

PRENDA PLLUMBAJ and NDUE PLLUMBAJ, Plaintiffs-Appellants,	UNPUBLISHED November 2, 2004
v	No. 248295 Macomb Circuit Court
CONSOLIDATED MANAGEMENT, INC., Defendant-Appellee.	LC No. 02-003264-NO

Before: Griffin, P.J., and Saad and O'Connell, JJ.

PER CURIAM.

Plaintiffs appeal the trial court's order that granted defendant's motion for summary disposition in this premises liability case, and we affirm.[1]

Prenda Pllumbaj slipped in a puddle of water in the laundry room of a building owned by defendant and fell to the floor, sustaining injuries. Plaintiffs filed suit alleging that defendant negligently failed to maintain the premises in a reasonably safe condition and to warn of the unsafe condition, and that by allowing the dangerous condition to exist breached duties imposed by federal, state, and local law. The trial court granted defendant's motion for summary disposition pursuant to MCR 2.116(C)(10), finding that the condition was open and obvious and was not unreasonably dangerous in spite of its open and obvious nature. The trial court declined to address the parties' remaining arguments.

We review a trial court's decision on a motion for summary disposition de novo. *Auto Club Group Ins Co v Burchell*, 249 Mich App 468, 479; 642 NW2d 406 (2001).

To establish a prima facie case of negligence, a plaintiff must prove that: (1) the defendant owed a duty to the plaintiff; (2) the defendant breached the duty; (3) the defendant's breach of duty proximately caused the plaintiff's injuries; and (4) the plaintiff suffered damages. *Case v Consumers Power Co*, 463 Mich 1, 6; 615 NW2d 17 (2000).

[1] This appeal is being decided without oral argument pursuant to MCR 7.214(E).

A possessor of land has a duty to exercise reasonable care to protect an invitee from an unreasonable risk of harm caused by a dangerous condition on the land. The duty to protect an invitee does not extend to a condition from which an unreasonable risk of harm cannot be anticipated, or from a condition that is so open and obvious that an invitee could be expected to discover it for himself. *Bertrand v Alan Ford, Inc*, 449 Mich 606, 609; 537 NW2d 185 (1995).

The open and obvious danger doctrine attacks the duty element that a plaintiff must establish in a prima facie negligence case. *Id*. at 612. Whether a danger is open and obvious depends on whether it is reasonable to expect that an average person with ordinary intelligence would have discovered the danger upon casual inspection. *Novotney v Burger King Corp (On Remand)*, 198 Mich App 470, 474-475; 499 NW2d 379 (1993). If special aspects of a condition make even an open and obvious risk unreasonably dangerous, a possessor of land must take reasonable precautions to protect an invitee from that risk. If such special aspects are lacking, the open and obvious condition is not unreasonably dangerous. *Lugo v Ameritech Corp*, 464 Mich 512, 517-519; 629 NW2d 384 (2001).

Prenda Pllumbaj acknowledged that had she been looking at the area in which she was walking, she would have seen the puddle of water. It is reasonable to conclude that she would not have been injured had she been watching her step. *Novotney*, *supra* at 477; *Millikin v Walton Manor Mobile Home Park, Inc*, 234 Mich App 490, 497; 595 NW2d 152 (1999). The fact that she was carrying a basket of laundry was not a special aspect of the floor. No special aspects made the condition unreasonably dangerous in spite of its open and obvious nature. *Lugo*, *supra*.

Affirmed.[2]

/s/ Richard Allen Griffin
/s/ Henry William Saad
/s/ Peter D. O'Connell

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[2] On appeal, plaintiffs argue that the open and obvious doctrine does not apply, because defendant has a statutory duty to maintain the premises "in reasonable repair," MCL 554.139(1), and the open and obvious doctrine does not apply in cases where a duty is imposed by statute. See *Jones v Enertel, Inc*, 467 Mich 266, 269; 650 NW2d 334 (2002); *O'Donnel v Garasic*, 259 Mich App 569, 581; 676 NW2d 213 (2003). However, this issue was neither raised before nor decided by the trial court, and it is therefore not preserved for appeal. *46th Circuit Trial Court v Crawford County*, 261 Mich App 477, 504; 682 NW2d 519 (2004).