

STATE OF MICHIGAN
COURT OF APPEALS

WERNER MEYER and JEANETTE M. MEYER,

Plaintiffs-Appellees,

v

WAYNE R. RULE and RAISA M. RULE,

Defendants-Appellants.

UNPUBLISHED
November 2, 2004

No. 248324
Hillsdale Circuit Court
LC No. 03-000078-CZ

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

MEMORANDUM.

Defendants appeal as of right the order granting a permanent injunction limiting their parking on a driveway easement. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The parties are neighbors in the Indian Hills subdivision located on Lake LeAnn. A small driveway known as Sioux Pointe Lane runs between their properties. Sioux Pointe Lane is platted as 25 feet in width and contains a twelve-foot wide strip of asphalt.

In 2000, plaintiffs filed a prior action against defendants asserting that they had improperly encroached on the easement by installing rocks, bushes, and other landscaping materials. After a trial, the court entered judgment in that case, Hillsdale Circuit Court Case No. 00-405-CZ, on July 25, 2001. The judgment precluded both parties from taking any action to block or impede the use of the entire driveway easement.

In 2003, plaintiffs filed this complaint for a permanent injunction, seeking to permanently enjoin defendants from parking motor vehicles in the easement. After a short hearing, the court granted plaintiffs the relief they sought.

We review a trial court’s decision whether to grant injunctive relief for an abuse of discretion. *Schadewald v Brule*, 225 Mich App 26, 39; 570 NW2d 788 (1997). The scope of an easement is a question of law that is reviewed de novo on appeal. *Id.* at 35.

The prior judgment included the following provision: “Neither of the parties shall block or impede the use of the entire driveway easement as set forth in the plat.” Thus, the scope of the easement had already been decided. Parking a vehicle on the easement would necessarily block

or impede the use of some portion of the easement. Given that judgment, the trial court did not abuse its discretion in granting the permanent injunction.

While defendants assert that there were procedural irregularities, the pleadings put them on notice that the matter could be resolved at the initial hearing. The complaint included a notice of hearing stating that the complaint would be brought for a hearing on February 24, 2003. The parties stipulated to an adjournment, and the hearing was reset for March 17, 2003. Given the nature of the request for relief and the notice of hearing, defendants were on notice that the matter could be decided at the hearing.

Affirmed.

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