STATE OF MICHIGAN

COURT OF APPEALS

CHARTER TOWNSHIP OF CHESTERFIELD, Plaintiff-Appellee,	UNPUBLISHED December 7, 2010
v	No. 293795 Macomb Circuit Court
DALLAS M. BURTON and ELLEN M. KENT, Defendants-Appellants.	LC No. 2008-002370-CZ

Before: OWENS, P.J., and K. F. KELLY and FORT HOOD, JJ.

PER CURIAM.

Defendants Dallas Burton and Ellen Kent appeal as of right an order denying their motion for judgment notwithstanding the verdict (JNOV), or, in the alternative, a new trial. Burton and Kent's issues on appeal, however, mainly stem from the circuit court's May and June 2009 orders granting plaintiff Charter Township of Chesterfield injunctive relief. For the reasons stated in this opinion, we affirm.

I. BASIC FACTS

Although the procedural history of this case is complicated, at the center of the controversy is a shed located on defendants' property. In May 2008, the Township filed a three-count complaint in the circuit court. Counts I and II essentially claimed that Burton and Kent owned property on which the shed was located and that the shed violated the Chesterfield Township Zoning Code in several particulars. Count III of the complaint further asserted that Burton and Kent used their property for the outdoor storage of unregistered vehicles, junk cars, old fuel tanks, an old tractor, and tarps. The Township noted that it had issued Burton and Kent a citation for blight, yet Burton and Kent still failed to remove the blight. The Township asserted that Burton and Kent's use of the property constituted blight and was a nuisance per se pursuant to MCL 125.3601. The Township asserted it had no adequate remedy at law to require Burton and Kent to remove the blight and, therefore, only an injunctive order could cause the abatement of the nuisance per se.

In May 2009, after a number of motions, hearings, and the filing of an amended complaint, the circuit court entered an order, granting the Township's request for injunctive relief and stating:

> The court finds that the shed in question is sited in the front yard of lot 113.[1] Therefore, the structure is in violation of Sec. 76-331 of the Chesterfield Township Zoning Ordinance. The court specifically finds the front of Lot 113 abuts Land Drive.
>
> The Court further finds that the junk building materials, tanks, Ford 350 front end loader and back hoe, and the 24-foot Sea Ray that has been tarped and shrink wrapped since 2004-05, all constitute blight as defined in the Chesterfield Township Blight Ordinance #96 Sec. 34-61 through 66.

The circuit court issued an order of injunction in June 2009. Burton and Kent then moved for a JNOV or, in the alternative, a new trial. The circuit court entered an order denying Burton and Kent's motion. The circuit court explained:

> [Burton and Kent] disagree with this Court's interpretation of the Township's ordinance which prohibits the erection of the structure—this is not a legal basis to set aside the verdict, or to grant a new trial. It was found that [Burton and Kent's] shed clearly violated the ordinance with respect to setbacks. The Court was convinced that certain blight existed on the property, again, in violation of the Township's ordinance. . . .
>
> Because the Court is convinced that its interpretation of the ordinance was reasonable and logical, and [Burton and Kent] were in violation thereof, this Court has not abused its discretion. . . .
>
> [Burton and Kent] further argue that the Court improperly denied their affirmative defenses. The record indicates that the matter of res judicata had already been addressed, considered, and decided in an *Opinion and Order* entered by this Court . . . following [Burton and Kent's] motion for summary disposition. Briefly, it was stated that the lower court did not have the authority to issue injunctive relief; Defendant Burton was issued a criminal misdemeanor ticket and found to be guilty of the prohibited activity, and the case was then closed. The immediate action involves different parties and different claims. . . .
>
> Here, the Township could not resolve the issue of injunctive relief because the district courts lack jurisdiction to issue such relief. Thus, the Township was not precluded from bringing the injunctive relief action in the Circuit Court. . . . Similarly, [Burton and Kent's] other arguments regarding the lower court's actions are merely restyles of those already addressed.
>
> The Court also disagrees that no evidence was presented that blight existed on [Burton and Kent's] property. The Ordinance Enforcement Officer

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[1] It had earlier been established that Burton and Kent owned part of lot 113.

> offered testimony and photographs clearly indicating a condition of blight existed on [Burton and Kent's] property, in the form of junk cars and vehicles, junk, and building materials.

Burton and Kent now appeal this order, but as we stated above, the gist of their appeal goes to the circuit court's injunctive orders.

II. JURISDICTION

A. STANDARD OF REVIEW

Burton and Kent argue that the circuit court lacked jurisdiction over the Township's claims. This Court reviews de novo jurisdictional issues. *Wayne County Chief Exec v Governor*, 230 Mich App 258, 269; 583 NW2d 512 (1998).

B. LEGAL STANDARDS

"'Jurisdiction, when applied to courts, is the power to hear and determine a cause or matter.'" *Bowie v Arder*, 441 Mich 23, 36; 490 NW2d 568 (1992), quoting *Langdon v Wayne Circuit Judges*, 76 Mich 358, 367; 43 NW 310 (1889). "[J]urisdiction over the subject matter is the right of the court to exercise judicial power over that class of cases; not the particular case before it, but rather the abstract power to try a case of the kind or character of the one pending . . . ." *Id.* (quotations and citations omitted). "If a court lacks subject-matter jurisdiction, its acts and proceedings are invalid." *City of Riverview v Sibley Limestone*, 270 Mich App 627, 636; 716 NW2d 615 (2006). Pursuant to MCL 600.605, "[c]ircuit courts have original jurisdiction to hear and determine all civil claims and remedies, except where exclusive jurisdiction is given in the constitution or by statute to some other court or where the circuit courts are denied jurisdiction by the constitution or statutes of this state." See also Const 1963, art 6, § 13.

C. APPLYING THE STANDARDS

Burton and Kent argue that the Township could have filed a motion in the circuit court to transfer the case to the proper jurisdiction if it believed its allegations constituted nuisance per se, but it chose not to. According to Burton and Kent, the Township also could have appealed Burton's prior district court misdemeanor conviction and $100 fine but, again, chose not to. Burton and Kent assert that the district court adjudicated the Township's causes of action in a prior action that was closed in 2005, but otherwise the district court retained jurisdiction. Further, Burton and Kent argue that pursuant to MCL 66.6, an action alleging a code violation must be filed in district court and must be commenced not more than two years after the commission of the offense and, therefore, the Township's claims in the circuit court were untimely. We disagree.

Pursuant to MCL 600.8311, "The district court shall have jurisdiction over":

> (a) Misdemeanors punishable by a fine or imprisonment not exceeding 1 year, or both.

(b) Ordinance and charter violations punishable by a fine or imprisonment, or both.

And MCL 41.183(6) provides that, "[a]n action for the violation of a township ordinance shall be instituted in the district court."

In 2005, the district court convicted Burton of a misdemeanor for constructing a shed that violated Chesterfield Township Zoning Code § 76-331. However, the district court did not issue an injunction, and Burton and Kent's shed remained standing, in violation of the ordinance. Rather than issue a citation for every day that Burton and Kent were in violation of the ordinance, however, the Township chose to seek abatement of the nuisance and brought an action in circuit court in order to obtain injunctive relief.

"[A]s a court of general equity jurisdiction, a circuit court has subject-matter jurisdiction to issue an injunction." *Cherry Growers, Inc v Mich Processing Apple Growers, Inc*, 240 Mich App 153, 161; 610 NW2d 613 (2000). More specifically, pursuant to MCL 600.2940(1), "[a]ll claims based on or to abate nuisance may be brought in the circuit court. The circuit court may grant injunctions to stay and prevent nuisance." Moreover, by statute, a "'district court shall *not* have jurisdiction in actions for injunctions . . . or actions which are historically equitable in nature, except as otherwise provided by law.'" *People v Keeth*, 193 Mich App 555, 562; 484 NW2d 761 (1992), quoting MCL 600.8315 (emphasis added). Therefore, although MCL 41.183(6) and MCL 600.8311 required that the Township institute its action for violation of the township zoning code in the district court, its suit for injunctive relief in the circuit court was proper, and the circuit court had jurisdiction.

Burton and Kent further contend that the Township's claims violated the statute of limitations and were not properly before the circuit court. The six-year period of limitations set forth in MCL 600.5813 governed the Township's claim seeking injunctive relief to abate a public nuisance. But it is undisputed that Burton and Kent's shed was still standing on May 30, 2008—the date the Township filed its complaint. Therefore, there was no violation of the statute of limitations, and the issue was properly before the circuit court.

III. RES JUDICATA

A. STANDARD OF REVIEW

Burton and Kent argue that res judicata barred the Township's claims. This Court reviews de novo questions of law regarding the applicability of the doctrine of res judicata. *Stoudemire v Stoudemire*, 248 Mich App 325, 332; 639 NW2d 274 (2001).

B. LEGAL STANDARDS

"In general, res judicata bars a subsequent action between the same parties when the facts or evidence essential to the action is identical to that essential to a prior action." *Richards v Tibaldi*, 272 Mich App 522, 530; 726 NW2d 770 (2006). "The doctrine of res judicata is intended to relieve parties of the cost and vexation of multiple lawsuits, conserve judicial resources, and encourage reliance on adjudication, that is, to foster the finality of litigation." *Begin v Mich Bell Tel Co*, 284 Mich App 581, 599; 773 NW2d 271 (2009).

> Res judicata requires that (1) the prior action was decided on the merits, (2) the decree in the prior action was a final decision, (3) the matter contested in the second case was or could have been resolved in the first, and (4) both actions involved the same parties or their privies. The burden of establishing the applicability of res judicata is on the party asserting the doctrine. [*Richards*, 272 Mich App at 531.]

C. APPLYING THE STANDARDS

In this case, the third and fourth elements of the doctrine of res judicata are at issue. Burton and Kent argue that Burton was convicted in 2005 of a misdemeanor violation of Chesterfield Township Zoning Code § 76-331, paid the $100 fine, and the case was closed. Burton and Kent contend that, after the Township amended its complaint in the current action alleging nuisance per se, the circuit court erred by denying their res judicata defense (as raised in Burton and Kent's motion for summary disposition) on the grounds of different parties and issues because the Township is relitigating its prior action under the guise of nuisance per se.

"This Court has taken a broad approach to the doctrine of res judicata, holding that it bars not only claims already litigated, but also every claim arising from the same transaction that the parties, exercising reasonable diligence, could have raised but did not." *Washington v Sinai Hosp of Greater Detroit*, 478 Mich 412, 418; 733 NW2d 755 (2007). "There are two alternative tests for determining when res judicata will bar a claim in a second lawsuit . . . : the 'same transaction' test and the 'same evidence' test." *Begin*, 284 Mich App at 600 (internal citations and punctuation omitted). "The 'transactional' test provides that the assertion of different kinds or theories of relief still constitutes a single cause of action if a single group of operative facts give rise to the assertion of relief." *Id.* at 601, quoting *Adair v State*, 470 Mich 105, 119; 680 NW2d 386 (2004). Further, "whether a factual grouping constitutes a 'transaction' for purposes of res judicata is to be determined pragmatically, by considering whether the facts are related in time, space, origin or motivation, [and] whether they form a convenient trial unit . . . ." *Id.* (internal citations omitted).

In this case, the Township issued several citations to Burton and Kent. On July 25, 2002, Burton was issued an appearance ticket/complaint for lack of permit for the shed. On April 19, 2004, John St. Germaine, the Township's code enforcement officer, sent Burton a letter informing him that St. Germaine had issued him a citation for building an accessory building in his front yard setback without a permit. On July 25, 2004, Burton was issued an appearance ticket/complaint for having an accessory building in a front yard setback and for lack of a permit for the shed. The district court subsequently convicted Burton of a misdemeanor in March 2005 for violating the front yard setback ordinance, Chesterfield Township Zoning Code, § 76-331, but the district court dismissed the citation for building without a permit. Chesterfield Township Zoning Code, § 76-653. On October 1, 2007, St. Germaine sent a letter to both Burton and Kent informing them that he observed "a condition of blight and outside storage." On October 17, 2007, St. Germaine wrote a letter to Burton and Kent stating, "I have issued you a violation for not obtaining a permit for the accessory building built without a rat wall . . . and for blight for the conditions around your property." The same day, St. Germaine issued an appearance ticket/complaint. The Township later filed its complaint in this case on May 30, 2008.

According to the transactional test described above, the Township *could* have brought the 2005 district court action in circuit court and asked for an injunction because, pursuant to MCL 600.2940(1), "[a]ll claims based on or to abate nuisance may be brought in the circuit court. The circuit court may grant injunctions to stay and prevent nuisance." As will be discussed below, a code violation is a nuisance per se. Thus, the Township could have chosen an action to abate the nuisance rather than an action to prosecute Burton for a misdemeanor. However, even given the broad reading of the transactional test, the Township does not lack a remedy for a continuing violation of the ordinance. Every day the shed is standing, Burton and Kent are in violation of Chesterfield Township Zoning Code § 76-331 and, thus, the facts of the 2005 and 2008 cases are not precisely "related in time." *Begin*, 284 Mich App at 601. In addition, the violation of the blight ordinance, Chesterfield Township Zoning Code § 34-61, was not addressed in the 2005 suit. Thus, res judicata did not bar the Township's claim.

It is also true that, after the Township amended its complaint to add parties, the current action involved different parties than the 2005 district court action. And it is arguable that, given more extensive research and title searching, the Township *could* have discovered the additional parties, who owned part of the lot where the shed was located, and joined them in the 2005 action. Nevertheless, since, as discussed, the claims in the district court as compared to the circuit court were different, the Township's action was not barred.

IV. LAW OF THE CASE

Burton and Kent argue that, by allowing the Township to amend its complaint to add parties and correct the location of the shed, the circuit court allowed the Township to "change the law of the case," because Burton was previously convicted of erecting a shed on lot 114, in violation of Chesterfield Township Zoning Code § 76-331, even though the shed had always been located on lot 113. The law of the case doctrine, however, applies to cases that have been remanded after appeal, and is not applicable to this action. *Ashker v Ford Motor Co*, 245 Mich App 9, 13; 627 NW2d 1 (2001). Burton and Kent did not otherwise challenge the Township's motion to amend its complaint in the circuit court. Therefore, this issue is not preserved for appeal, and we decline to review it. *Heydon v MediaOne of Southeast Mich, Inc*, 275 Mich App 267, 281; 739 NW2d 373 (2007).

V. INJUNCTIVE RELIEF

A. STANDARD OF REVIEW

Burton and Kent argue that the circuit court erred in granting the Township injunctive relief. "This Court reviews a trial court's decision to grant injunctive relief for an abuse of discretion. An abuse of discretion occurs when a trial court's decision is not within the range of reasonable and principled outcomes." *Taylor v Currie*, 277 Mich App 85, 93; 743 NW2d 571 (2007). In addition, "[n]uisance-abatement proceedings brought in the circuit court are generally equitable in nature. MCL 600.2940(5). "We review de novo the circuit court's equitable decisions, but review for clear error the findings of fact supporting those decisions." *Ypsilanti Charter Twp v Kircher*, 281 Mich App 251, 270; 761 NW2d 761 (2008). Finally, the interpretation of a zoning ordinance is "a question of law subject to review de novo." *Brandon Twp v Tippett*, 241 Mich App 417, 421; 616 NW2d 243 (2000).

B. NUISANCES PER SE

The circuit court found that Burton and Kent's shed violated Chesterfield Township Zoning Code § 76-331 (front yard setback), and further, that Burton and Kent were in violation of the Township's blight ordinance, Chesterfield Township Zoning Code § 34-61 through 34-66. Pursuant to MCL 125.3407, certain ordinance violations constitute a nuisance per se:

> Except as otherwise provided by law, *a use of land* or a dwelling, building, *or structure*, including a tent or recreational vehicle, *used, erected*, altered, razed, or converted *in violation of a zoning ordinance or regulation adopted under this act*[2] *is a nuisance per se*. *The court shall order the nuisance abated*, and the owner or agent in charge of the dwelling, building, structure, tent, recreational vehicle, or land is liable for maintaining a nuisance per se. . . . [Emphasis added.]

"A nuisance per se is also known as a nuisance at law." *Kircher*, 281 Mich App at 270 n 4. "A nuisance at law or a nuisance per se is an act, occupation, or structure which is a nuisance at all times and under any circumstances, regardless of location or surroundings." *Id.* (quotations and citations omitted). MCL 600.2940(1) provides that "[a]ll claims based on or to abate nuisance may be brought in the circuit court. The circuit court may grant injunctions to stay and prevent nuisance." Thus, "[c]ircuit courts have broad equitable authority to abate nuisances under MCL 600.2940." *Id.* at 275-276.

Here, the issue is whether the circuit court properly interpreted the Township's ordinances and found Burton and Kent in violation for their use of the land (blight) and erection of a structure (the shed). Burton and Kent argue that the circuit court erred in granting an injunction because the Township did not meet its burden of proof. With respect to the shed, Burton and Kent maintain that the circuit court erred in finding that the shed was located in the front yard of lot 113 because, in fact, the shed is located next to the side street lot line of lot 113. Regarding the blight issue, according to Burton and Kent, the only thing that qualified as junk was Burton and Kent's daughter's car, which was parked in the driveway for a short time after an accident. In addition, Burton and Kent assert that the Township presented no testimony or evidence that the boat was either unlicensed or inoperable. Further, although the Township described Burton and Kent's tractor as inoperable, the Township presented no such proof and Burton denied it in his testimony.

C. LEGAL STANDARDS

This Court interprets ordinances in the same manner that it interprets statutes:

> If the language is clear and unambiguous, the courts may only apply the language as written. However, if reasonable minds could differ regarding the meaning of the ordinance, the courts may construe the ordinance. We follow these rules of

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[2] Michigan Zoning Enabling Act, MCL 125.3101 *et seq.*

construction in order to give effect to the legislative body's intent. [*Tippett*, 241 Mich App at 422.]

D. APPLYING THE STANDARDS

Regarding the location of the shed, Chesterfield Township Zoning Code § 76-331 provides:

> (a) Accessory Buildings. Accessory buildings in the agricultural and residential districts shall be subject to the following regulations. . . .
>
> * * *
>
> (8) A detached accessory building incidental to the dwelling shall be located only in a rear yard, except *when a detached accessory building is located in a corner lot, the building shall observe a front yard setback from both streets as required in Article 3*.
>
> * * *
>
> (10) No accessory building shall be constructed prior to the enclosure of the main building. [Emphasis added.]

Here, although the documentation submitted by the parties does not specify the specific setback required, David Czuprenski, the Township's building inspector, testified that the setback had to be 30 feet. Burton and Kent do not dispute the length, but rather, they dispute the fact that the shed is located in a front yard. In the Chesterfield Township Zoning Code's definition section, submitted by Burton and Kent, "front" is defined as "that side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side line of a corner lot." Chesterfield Township Zoning Code, § 76-691. Hence, as Chesterfield Township Zoning Code § 76-331 states, a corner lot, which borders two streets, must observe the setback from both streets. As shown on the drawings submitted by the parties, the two streets making up Burton and Kent's corner lot (and specifically, lot 113) are both called Land Drive. The circuit court specifically found that lot 113 abuts Land Drive, and this is evident from the drawings. Additionally, Burton and Kent submitted a mortgage survey showing the shed on lot 113 to be only eight feet from Land Drive. Therefore, the circuit court did not err in finding a violation of the setback ordinance.

Regarding the blight allegation, Chesterfield Township Zoning Code § 34-64, unlawful conduct and conditions, states:

> (a) It is hereby determined that the following uses, structures and activities are causes of blight or blighting factors which, if allowed to exist, will tend to result in blighted and undesirable conditions, and are hereby declared unlawful. No person shall maintain or permit to be maintained any of these causes of blight or blighting factors upon any property in the township owned, leased, rented or occupied by such person.

> (1) The storage or accumulation of *junk or junk boats, automobiles or motor vehicles, accessory vehicles* or any part thereof except in a completely enclosed building.
>
> (2) The storage or accumulation of *building materials* unless there is in force a valid building permit issued by the township for construction upon the property . . . .
>
> (3) The storage or accumulation of junk, trash, rubbish or refuse of any kind without a landfill permit, except domestic refuse stored in such a manner as not to create a nuisance for a period not exceed 15 days. . . . [Emphasis added.]

Chesterfield Township Zoning Code § 34-63 describes "junk boat, automobile, or motor vehicle," as "any boat, automobile or motor vehicle which is not licensed for use upon the waters or highways of the state, and shall also include, whether licensed or not, any boat or motor vehicle which is inoperative." In this case, the Township presented evidence that Burton and Kent had a vehicle—variously described as a tractor, front-end loader, or back hoe—on their property, which was not a vehicle licensed for use on waters or highways. In addition, St. Germaine presented testimony that a boat stored on the property was unregistered, and, regardless of whether it was licensed or not, the boat was not operable because it was shrink wrapped, as admitted by Burton, and had not been used since 2004. The car in Burton and Kent's driveway, as also admitted by Burton, had been in an accident and a photograph showed that it also was partially covered by a tarp.

St. Germaine further testified that, as shown in photographs taken as recently as May 8, 2008, Burton and Kent had gas tanks, an old chain link fence, concrete blocks, and bags of mortar in the yard. The Chesterfield Township Zoning Code's definitions section includes concrete blocks and bags of mortar in its definition of building materials, which are prohibited as well as "dilapidated fences (cast off or in place)." Chesterfield Township Zoning Code, § 34-63. The tanks—whether fuel tanks or water tanks, as Burton claimed in his testimony—could be considered "[c]ast off material of any kind, whether or not such items could be put to any reasonable use." Thus, the circuit court did not clearly err in finding that Burton and Kent were in violation of the blight ordinance and the front yard setback ordinance. Pursuant to MCL 125.3407, the circuit court properly issued an injunction.

VI. DUE PROCESS

A. STANDARD OF REVIEW

Burton and Kent argue that they were denied due process. This Court reviews de novo the constitutional question whether proceedings complied with due process rights. *In re HRC*, 286 Mich App 444, 462; 781 NW2d 105 (2009).

B. LEGAL STANDARDS

"A state may not deprive any person of life, liberty, or property without due process." *Tolksdorf v Griffith*, 464 Mich 1, 7; 626 NW2d 163 (2001); US Const, Am XIV. "Due process

enforces the rights enumerated in the Bill of Rights and includes both substantive and procedural due process." *Thomas v Pogats*, 249 Mich App 718, 724; 644 NW2d 59 (2002).

> Procedural due process serves as a limitation on government action and requires government to institute safeguards in proceedings that affect those rights protected by due process, including life, liberty, or property. Due process is a flexible concept that applies to any adjudication of important rights. It calls for procedural protections as the situation demands, including fundamental fairness. [*Id*. (internal citations omitted).]

Further,

> Due process in civil cases generally requires notice of the nature of the proceedings, an opportunity to be heard in a meaningful time and manner, and an impartial decision maker. The opportunity to be heard does not mean a full trial-like proceeding, but it does require a hearing to allow a party the chance to know and respond to the evidence. [*Hanlon v Civil Serv Comm*, 253 Mich App 710, 723; 660 NW2d 74 (2002) (quotations and citations omitted).]

C. APPLYING THE STANDARDS

Burton and Kent argue that they were denied the right to a fair and speedy trial because, in 2008, the circuit court granted the Township leave to amend "the law of the case" that the 2005 judgment established. Burton and Kent also allege that the circuit court judge prejudged the case in its opinion and order denying their motion for summary disposition. Finally, at the December 29, 2008 hearing, the circuit court refused to allow Burton and Kent to question the Township's witness about the 2005 trial. Burton and Kent conclude that Burton was put in jeopardy in 2005 of a $500 fine and 93 days in jail, and now, Burton and Kent are in jeopardy of losing their property, in violation of double jeopardy.

Here, Burton and Kent, in fact, had "a full trial-like proceeding." Not only did the circuit court hold an evidentiary hearing where Burton and Kent were allowed to present evidence and question witnesses, but also, Burton and Kent brought several motions, including a motion for summary disposition and a motion for new trial, where they were able to present additional arguments and evidence to the circuit court judge. Although Burton and Kent imply that the circuit court abused its discretion in allowing the Township to amend its complaint, this is incorrect, as Burton and Kent failed to show prejudice. *Knauff v Oscoda County Drain Comm'r*, 240 Mich App 485, 493; 618 NW2d 1 (2000). Finally, regarding the circuit court's decision to disallow questioning about the 2005 trial and misdemeanor conviction, Burton and Kent cannot show that this violated fundamental fairness because the events in the earlier trial were not related to the current civil action for an injunction. Therefore, Burton and Kent were afforded due process.

Burton and Kent further imply that they were denied a speedy trial and that their rights against double jeopardy were violated. We disagree. First, while it is true that "[b]oth the United States Constitution and the Michigan Constitution guarantee a criminal defendant the right to a speedy trial," *People v Waclawski*, 286 Mich App 634, 665; 780 NW2d 321 (2009),

citing US Const, Am VI; Const 1963, art 1, § 20, MCL 768.1, MCR 6.004(A), the Township brought the action here for injunctive relief. The action was not a criminal trial and, therefore, speedy trial rights do not apply.

Regarding double jeopardy, "[b]oth the United States and Michigan Constitutions prohibit a person from twice being placed in jeopardy for the same offense." *People v Ford*, 262 Mich App 443, 447; 687 NW2d 119 (2004), citing US Const, Am V; Const 1963, art 1, § 15. These double jeopardy provisions "afford three related protections: 1) against a second prosecution for the same offense after acquittal; 2) against a second prosecution for the same offense after conviction; and 3) against multiple punishments for the same offense."[3] Here, however, Burton is not being criminally prosecuted and punished for the same offense for which he was prosecuted and convicted in 2005 because, as stated, this was a civil action seeking an injunction. Thus, Burton and Kent's double jeopardy claims have no merit.

Affirmed.

/s/ Donald S. Owens
/s/ Kirsten Frank Kelly
/s/ Karen M. Fort Hood

[3] *Id.*