

STATE OF MICHIGAN  
COURT OF APPEALS

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CALHOUN ENTERPRISES, INC.,

Plaintiff-Appellant,

v

SAMIH KSAR and MELISSA A.  
KSAR, d/b/a SAMI'S RESTAURANT,

Defendants-Appellees.

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UNPUBLISHED

May 5, 1998

No. 200954

Oakland Circuit Court

LC No. 93-464573 CH

Before: Neff, P.J., and White and D. A. Teeple\*, JJ.

MEMORANDUM.

In this quiet title action tried to the bench, plaintiff appeals by right a judgment recognizing, within limits specified in the trial court's decision, the validity and permanence of an easement in favor of defendants over plaintiff's adjoining property. This appeal is being decided without oral argument pursuant to MCR 7.214(E). We affirm.

Plaintiff relies on *Fox v Pierce*, 50 Mich 500, 504; 15 NW 880 (1883), for the proposition that a right of way which is too indefinite for a determinate description will not be protected by a court of chancery. Here, the language of the written easement, filed with the Register of Deeds of Oakland County, although somewhat indefinite, is also extremely broad, and refers to existing pavement and other structures as indications of the scope of the easement reserved. Where, as here, an easement is created by express grant and not by prescription, the rule of *Fox v Pierce, supra*, has little application. Particularly where, as here, the scope of the easement may be located by clear 200954 of the original parties, equity will not be "so blind as to fail to recognize the evident and necessary designation of the way." *Greve v Caron*, 233 Mich 261, 264-265; 206 NW 334 (1925). Furthermore, the trial court could properly consider extrinsic evidence to define the scope of the easement and effectuate the intent of the parties who created it. *Johnston v Michigan Consolidated Gas Co*, 337 Mich 572, 577-578; 60 NW2d 464 (1953); *Domas v Rossi*, 52 Mich App 311, 313; 217 NW2d 75 (1974).

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\* Circuit judge, sitting on the Court of Appeals by assignment.

Affirmed.

/s/ Janet T. Neff

/s/ Helene N. White

/s/ Donald A. Teeple