

STATE OF MICHIGAN
COURT OF APPEALS

OAKMAN ASSOCIATES, INC.,

Plaintiff-Appellee,

v

RONNIE HEREFORD and DARLENE
HEREFORD,

Defendant-Appellant.

UNPUBLISHED

February 27, 2001

No. 219942

Wayne Circuit Court

LC No. 98-817204 CH

Before: White, P.J., and Wilder and Zahra, JJ.

PER CURIAM.

In this real property dispute, plaintiff brought an action to quiet title to certain real property lying between land owned by itself and land owned by defendants. Defendants appeal as of right an order quieting title in plaintiff and granting plaintiff's motion for summary disposition pursuant to MCR 2.116(C)(10). We affirm.

This Court reviews the trial court's grant of summary disposition de novo. *The Herald Co v City of Bay City*, 463 Mich 111, 117; 614 NW2d 873 (2000). The lower court record is reviewed to determine if the moving party was entitled to judgment as a matter of law, *Krass v Tri-County Sec, Inc*, 233 Mich App 661, 665; 593 NW2d 573 (1999). A trial court may grant a motion for summary disposition under MCR 2.116(C)(10) only if the affidavits or other documentary evidence show that there is no genuine issue concerning any material fact. *Smith v Globe Life Ins Co*, 460 Mich 446, 454-455; 597 NW2d 28 (1999).

In the instant case, the parcels adjoining the disputed property were originally vested in plaintiff's predecessor, Oakman-Grand Associates.¹ Oakman-Grand Associates, by virtue of fee simple ownership of all abutting parcels, became the owner of the disputed property when that property, Allen Place and Roselawn Avenue, was vacated by the city of Detroit. This event occurred before plaintiff's predecessor deeded land to the north and the west of the disputed parcels to defendants under a land contract. Under common law, where a public street or alley

¹ Oakman-Grand Associates was a Michigan limited partnership and is a different entity than plaintiff Oakman Associates, a Michigan corporation.

was vacated, title to the vacated parcel reverted to the abutting landowner. *Dalton Twp v Muskegon Rd Comm'rs*, 223 Mich App 53, 57; 565 NW2d 692 (1997). This remains the case today under statutory law, MCL 560.227a(2); MSA 26.430(227a).²

Defendants claim that language in the 1993 land contract transferred title to one-half the disputed property. We disagree. Defendants presented no evidence that the language “adjoining vacated alley” referred to anything except an alley lying between parcels 43 through 47 and parcels 73 through 76. The Detroit resolution vacating the disputed streets referred to the streets by name and referenced separately vacated alleys. Consequently, the trial court correctly concluded that plaintiff was entitled to summary disposition on the basis of plaintiff’s deed granting title to the property identified as Allen Place and Roselawn Avenue to plaintiff. See *Dalton, supra*; MCL 560.227a(2); MSA 26.430(227a).

Defendants’ claim addressing adverse possession was not properly raised in the trial court. Further, the facts necessary for its resolution were not presented below. Accordingly, appellate review has been waived. *Mate v Wolverine Mut Ins Co*, 233 Mich App 14, 17 n 1; 592 NW 379 (1998); *Poch v Anderson*, 229 Mich App 40, 52; 580 NW2d 456 (1998). Regardless, payment of taxes is insufficient to establish title, Cf 2 Michigan Real Property Law, Statutory Regulation of Real Estate Development, § 21.9, p 976, citing OAG, 1981-1982, No. 5840, p 12 (January 15, 1981); *Rozmarek v Plamondon*, 419 Mich 287, 293; 351 NW2 558 (1984), and defendants presented no additional evidence of adverse possession, either in opposition to summary disposition or in support of their motion for summary disposition.

Affirmed.

/s/ Helene N. White

/s/ Kurtis T. Wilder

/s/ Brian K. Zahra

² MCL 560.227a(2); MSA 26.430(227a) states:

If the lots abutting the vacated street or alley on both sides belong to the same proprietor, title to the vacated street or alley shall vest in that proprietor. If the lots on opposites of the vacated street or alley belong to different proprietors, title up to the center line of the vacated street or alley shall vest in the respective proprietors of the abutting lots on each side.