STATE OF MICHIGAN

COURT OF APPEALS

GENERAL MEDICINE, P.C.,

Plaintiff-Appellant,

v

METROPOLITAN TITLE COMPANY, and FIRST AMERICA TITLE COMPANY,

Defendants-Appellees.

UNPUBLISHED
March 2, 2001

No. 216012
Wayne Circuit Court
LC No. 98-806151-CK

Before: Saad, P.J., and White and Hoekstra, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's order granting summary disposition to defendants. We affirm.

This case arises out of a policy of title insurance dated August 10, 1994, that plaintiff purchased from defendants. In May 1994, Dr. Thomas Prose, plaintiff's president, agreed to purchase the land and building (hereinafter "NBD building") located at 306 South Main Street in the city of Plymouth from the National Bank of Detroit. Dr. Prose then assigned all of his "rights, duties, and obligations" under the purchase agreement to plaintiff. The National Bank of Detroit employed defendants to "research the condition of title/ownership" of the NBD building, and to issue a title insurance commitment and policy.[1] Defendants issued plaintiff a commitment of title on or about July 19, 1994, without discovering that an easement burdening the NBD building in favor of an adjacent property was recorded in the Wayne County Register of Deeds. On the same day that the commitment of title was issued, plaintiff consummated the purchase of the NBD building. On August 10, 1994, defendants issued plaintiff a title insurance policy on the NBD building. After discovering the easement, plaintiff commenced this case against defendants.[2]

[1] It appears that in this case defendant Metropolitan Title company issued the title commitment and defendant First American Title Company underwrote the policy of title insurance that named plaintiff as the beneficiary.

[2] The record indicates that the claim was first brought by Dr. Thomas Prose, but was dismissed when it was determined that he was not the true party in interest. Thereafter, the case was refiled

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In response to plaintiff's complaint, defendants moved for summary disposition pursuant to MCR 2.116(C)(8). Defendants claimed that plaintiff voluntarily deeded the property by quit-claim deed to Maria Prose, who was not a shareholder in plaintiff, in September 1994. Thus, defendants claimed that plaintiff had failed to state a valid claim because plaintiff had no standing to sue, and because as "merely a tenant" in the NBD building, plaintiff had not suffered any damages "associated with diminution in value as a result of the easement." In response to defendants' motion for summary disposition, plaintiff conceded that it deeded the property to Maria Prose in September 1994, but argued that the title insurance policy issued by defendants was still in force after the sale because plaintiff retained a leasehold interest in the property. The trial court rejected plaintiff's argument and granted defendants' motion.

Although defendants filed their motion for summary disposition under MCR 2.116(C)(8), it appears from the record that the trial court relied on documentary evidence outside the pleadings. Accordingly, we will review the grant of summary disposition by the trial court under the standard for a motion filed pursuant to MCR 2.116(C)(10). *Shirilla v Detroit*, 208 Mich App 434, 436-437; 528 NW2d 763 (1995). We review a trial court's grant of summary disposition de novo. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998); *Russell v Dep't of Corrections*, 234 Mich App 135, 136; 592 NW2d 125 (1999). Our Supreme Court recently summarized the legal standard under MCR 2.116(C)(10):

> A motion under MCR 2.116(C)(10) tests the factual sufficiency of the complaint. In evaluating a motion for summary disposition brought under this subsection, a trial court considers affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties, MCR 2.116(G)(5), in the light most favorable to the party opposing the motion. Where the proffered evidence fails to establish a genuine issue regarding any material fact, the moving party is entitled to judgment as a matter of law. [*Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999) (citation omitted).]

Here, the title insurance policy that defendants issued to plaintiff on August 10, 1994, provides in relevant part:

> The coverage of this policy shall continue in force as of Date of Policy in favor of an insured *only so long as the insured retains an estate or interest in the land*, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from the insured, or only so long as the insured shall have liability by reason of covenants of warranty made by the insured in any transfer or conveyance of the estate or interest. [Emphasis added.]

A quit-claim deed conveys all rights, title and interest that the grantor has to the lands in the deed. *Doelle v Read*, 329 Mich 655, 657; 46 NW2d 422 (1951). In this case, plaintiff conveyed its entire title interest by quit-claim deed to another person, Maria Prose. The conveyance was absolute and there is no indication from the transfer that plaintiff retained any

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by plaintiff.

title interest. Because the policy of insurance issued by defendants only protected plaintiff's title interest and because the policy terminated upon plaintiff transferring its title interest in the land, the trial court did not err when it granted defendant's motion for summary disposition.

Plaintiff's claims that it retained an interest in the NBD Building that would permit it to pursue this action are without merit. First, plaintiff suggests that it retained a leasehold interest in the property after the quit-claim transfer because the transfer was effectuated for estate tax planning only. Plaintiff offers no support for this argument. For that reason alone we could decline further review. *Prince v MacDonald*, 237 Mich App 186, 197; 602 NW2d 834 (1999); *Head v Phillips Camper Sales & Rental, Inc*, 234 Mich App 94, 116; 593 NW2d 595 (1999). However, the reason for the lack of support is obvious. The law does not recognize the proposed dual interest in property, one for Internal Revenue Service (IRS) purposes and the other for all other legal purposes.

Next, plaintiff relies on the fact that its medical practice continued to operate on the second floor of the NBD Building to argue that it retained an interest in that building after the quit-claim transfer that precluded termination of defendants' title insurance policy. In this context, plaintiff relies upon the language of the policy that declares that the policy shall provide coverage as long as "the insured retains an estate or interest in the land." Essentially, plaintiff argues that its tenant status prevents defendants from terminating their title insurance policy.

Like any tenant, plaintiff's occupancy of part of the NBD Building with the consent of the owner gives rise to a legally cognizable interest in the property. This interest is recognized and protected by basic landlord-tenant law. See, e.g., MCL 554.601 *et seq.*; MSA 26.1138(1) *et seq.* However, a tenant's interest cannot be equated to an ownership or a title interest. Therefore, we agree with the trial court that because plaintiff did not retain any ownership or title interest in the NBD Building, the coverage provided in the policy was extinguished when plaintiff executed the quit-claim deed. We read the wording of the policy where it refers to retaining an estate or interest in land to require an ownership or title interest in order for the policy to remain in effect. To read those words to include mere possession or the right to possess an interest in the property is contrary to the very nature of interest protected by the policy, that being the title interest of the insured.

Affirmed.

/s/ Henry William Saad
/s/ Joel P. Hoekstra

I concur in result only.

/s/ Helene N. White