

STATE OF MICHIGAN
COURT OF APPEALS

LAWRENCE A. CRAWFORD and CASEY M.
HANS,

UNPUBLISHED
September 20, 2002

Plaintiffs/Counter-Defendants-
Appellees,

v

No. 231261
Montmorency Circuit Court
LC No. 97-003512-CH

CANADA CREEK RANCH ASSOCIATION,

Defendant/Counter-Plaintiff-
Appellant,

and

JOHN MURPHY, VIVIAN MURPHY, TED
SWAGER, EVA SWAGER, MICHAEL
STANKOVICH, and THERESA MCFARLAND,

Defendants.

Before: Whitbeck, C.J., and Sawyer and Kelly, JJ.

PER CURIAM.

Defendant Canada Creek Ranch Association appeals as of right the trial court's order denying its motion for sanctions. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant is a non-profit association consisting of members who own property in Canada Creek Ranch, a resort area. Plaintiffs formerly owned three adjacent lots in a subdivision of Canada Creek Ranch. The common practice in the resort was to allow the dirt trail roads to wander out of their platted locations and onto platted lots until lot owners decided to develop the lots. Defendant would then relocate the roads to their correct platted locations.

The platted location of a road known as Shelton Road ran roughly parallel to the western boundary of plaintiffs' lots; however, Shelton Road wandered out of its platted location and onto lots located to the west of those owned by plaintiffs. Plaintiffs filed suit¹ alleging ownership of

¹ Plaintiff Crawford is an attorney licensed to practice law in Michigan (P29524) and pursued the
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the land to the actual location of Shelton Road via adverse possession, or in the alternative that they acquired use of the land via a prescriptive easement. Plaintiffs eventually dropped all claims except that asserting the existence of a prescriptive easement. The trial court granted defendant's motion to dismiss, finding that plaintiffs could not establish the requisite elements of a prescriptive easement.

Defendant moved for sanctions pursuant to MCR 2.114, asserting that plaintiffs did not conduct a reasonable inquiry into the validity of their claims, and that their action was not well grounded in fact and existing law or a good faith argument for the extension, modification, or reversal of existing law as required by MCR 2.114(D). Defendant sought payment of costs and fees totaling \$52,423.92 pursuant to MCR 2.114(E). The trial court denied the motion, reasoning that because defendant's practice of allowing roads to wander out of their platted locations contributed to the dispute, defendant was not entitled to sanctions. The trial court's order denying defendant's motion for sanctions was stipulated to by the parties as to both form and substance.

A party filing a frivolous claim is subject to costs. MCR 2.625(A)(2). A claim is frivolous if the party's position is devoid of arguable legal merit. MCL 600.2591(3)(a)(iii). A signature on a pleading constitutes certification that the signer has read the pleading and to the best of the signer's knowledge, information, and belief after reasonable inquiry, the pleading is well grounded in fact and warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law. MCR 2.114(D). Filing a signed pleading that is not well grounded in fact subjects the filer to sanctions, including attorney fees. MCR 2.114(E). We review a trial court's finding that a claim is or is not frivolous for clear error, *Szymanski v Brown*, 221 Mich App 423, 436; 562 NW2d 212 (1997), and review the amount of sanctions awarded for an abuse of discretion. *In re Costs and Attorney Fees*, 250 Mich App 89, 104; 645 NW2d 697 (2002).

Defendant argues that it was entitled to sanctions because it successfully defended against plaintiffs' complaint. Defendant emphasizes that plaintiffs were unable to substantiate their claims, but does not address the trial court's stated reasons for denying its motion for sanctions. We affirm. The trial court granted defendant's motion and dismissed plaintiffs' claim on the ground that plaintiffs could not establish the requisite elements of a prescriptive easement. However, the trial court denied defendant's motion for sanctions on the ground that defendant's own actions contributed to the bringing of the action. Defendant presents no argument on the merits of its allegation that the trial court abused its discretion by denying its motion for sanctions; therefore, we deem the issue abandoned. *Prince v MacDonald*, 237 Mich App 186, 197; 602 NW2d 834 (1999).

Affirmed.

/s/ William C. Whitbeck
/s/ David H. Sawyer
/s/ Kirsten Frank Kelly

(...continued)

case on behalf of himself and plaintiff Hans.