

STATE OF MICHIGAN
COURT OF APPEALS

JANET L. CONE and ALLAN E. CONE,

Plaintiffs-Appellants,

v

PAUL ZELONY, HARRY ROSTKOWSKI, TISH KENNY, WILLIAM L. SUMPTER, MERRILL J. MUDD, JOHN M. GORE, THOMAS E. ROBINSON, HIGHLAND HEIGHTS SUBDIVISION ASSOCIATION, GEORGE M. TRITES, RICHARD LAW, GORDON A. ROTHFUSS, RICHARD D. MCFARLAND, GREGORY BOYNTON, DALE E. YOUNG, JR., STEVEN R. TOLONEN, MARK A BUSICK, FRANCIS P. PALAZZOLO, JOSEPH PASTUSZKA, PIERRE C. HUBBARD, DANNY MURPHY, CARL O'BERRY, J. COYLE, JODI L. STOVER, DUANE WAGNITZ, DONNA L. CASE, ROY M. TORNOW, GARY DAVIS, ANDREW KIRCHOFF, MARLIN TORNOW, HEIDI A. STANLEY, SCOTT J. HYVONEN, DOUGLAS DAVES, GTE TELEPHONE OPERATIONS, ANNE M. OSBORNE, WILLIAM COMPTON, SUZANNE COMPTON, EDWARD BRADLEY, ELLEN LAWRENCE, THOMAS M. JONES, JAMES F. KOCH, JOHN FERRIER, JAMES H. HOUSER, DYNASTY INVESTMENTS, ROBERT D. SCHANG, PAUL B. O'CONNOR, DONALD CHARTER, ROBERT W. McKIERNAN, ALAN STOFFER, ROLLAND M. BRENGLE, MICHAEL A. THOMPSON, MARK W. IRVIN, DOUGLAS J. BROOM, DAVID J. RAINEY, SR., CHARLOTTE THROOP, DOUGLAS L. BALL, DOUGLAS E. HAINES, PAUL L. TRITES, SHERRY DUNLEAVY, MICHAEL J. HUNT, HARRY J. MOORE, JR., EDWARD A. GREBIK, PAUL L. SMAZA, MICHAEL BADACZEWSKI, JAKIW WADYSZ, JIMMY L. TURNER, ALEX

UNPUBLISHED
September 20, 2002

No. 233034
Oakland Circuit Court
LC No. 1999-019571-CH

LANDRY, DAVID JOHNSON, ARLENE
BJORNHOLM, PAUL L. VALLETTE,
JENNIFER TESCHKER, EVA S. ARKINSON,
DANA J. BESSEN, DEAN KLEBAN, WILLIAM
LINDSAY, BRIAN L. CROWE, FAITH D. POPE,
PATRICK RYAN, CHARLES
DELAMIELLEURE, PETER FOLEY, JAMES W.
SMITH, LARRY W. BONDES, MERIBETH L.
PAGE, MICHELLE R. WILLIS, JERRY N.
BODE, ANTHONY J. ZAWACKI, JEFFERY L.
JACOBSEN, PAUL ARMSTRONG, LISA D.
HALL, ARTHUR L. HIGGINS, ALFRED H.
GRAMMER, JR., MICHAEL J. ROSS, DANIEL
A. HINEY, MICHAEL L. DERRY, LINDA S.
PALLISTER, MICHAEL J. WHELAN, BILLY J.
DUBS, DONOVAN J. McCABE, ROBERT J.
IRVIN, THOMAS G. LEWIS, DOUGLAS A.
BECK, TIMOTHY D. RUGGLES, CLARA M.
PEARSALL, PATRICIA S. PAZZANI, JAMES
A. MORAN, MARK McCLEOD, HELEN M.
ANDRES, WALTER J. COMIS, SHANNON L.
COMIS, KEVIN A. THOMPSON, ROBERT E.
LESSNER, JR., DANIEL L. PARKS, KENNETH
D. DYE, AGNES M. PARKS, DENNIS R.
GOTTERSON, SHEILA TABACZK, JASON
TABACZK, GERALD ASHENBRENNER,
MARY PHIPPS, RICHARD CHAMNESS,
HARRY A. CARMACK, WILLIAM B.
CHITTENENDEN, DAVID A. LAYTON,
RALPH W. GORA, BETTY RUDOLPH,
CHESTER SENIOR, FRANCES M. BRUNSON,
KRITINA L. KUPCZAK, GLORIA A.
SCHMIDT, CHARLES D. AHLFIELD, DAWN
M. MAZUREK, SCOTT E. VORE, ANNA
CLEVELAND, KELLIE A. COOPER, PATRICK
N. BABIN, THOMAS A. REGAN, JOSEPH
COYLE, DONALD SANDERSON, JUDITH
ELKINS, PATRICIA E. COX, WAYNE S.
HOPKINSON, MICHAEL L. WOLVERTON,
CHARLES SHINN, CLAUDE R. TUNISON, SR.,
CHRISTINE A. BARON, PAUL J. EICHLER,
DANIEL C. BOYD, SUSAN BOYD,
CHRISTOPHER W. CULHAM, CHARTER
TOWNSHIP OF HIGHLAND, STATE OF
MICHIGAN TREASURER, OAKLAND
COUNTY DRAIN COMMISSIONER,
OAKLAND COUNTY ROAD COMMISSION,

CONSUMERS ENERGY COMPANY, DETROIT
EDISON COMPANY, and RANDY SAYLOR,

Defendants-Appellees.

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

MEMORANDUM.

Plaintiffs brought this action to quiet title to certain property, and after a bench trial, the court dismissed plaintiffs' suit. In their complaint, plaintiffs assert a property interest in the disputed land using the doctrine of adverse possession.

The parties raise a number of issues on appeal, but before these issues can be addressed, there is an essential legal question that must be answered and in order to answer this legal issue, a remand is necessary. Because Michigan law prohibits anyone from using the doctrine of adverse possession to obtain an interest in property owned by the government, see MCL 600.5821, the trial court, on remand, must determine if this legal prohibition applies here in light of Highland Township's property interest in the disputed property.

Resolution of this issue in defendants' favor would render the issues raised by plaintiffs' appeal moot.

On remand, the trial court shall afford the parties the opportunity to brief and argue this issue and the opportunity to develop additional facts if necessary to the resolution of this legal question. The trial court shall enter an opinion and order which resolves this matter no later than January 6, 2003.

Accordingly, we remand for further proceedings consistent with this opinion.

We retain jurisdiction.

/s/ William C. Whitbeck

/s/ David H. Sawyer

/s/ Henry William Saad