

STATE OF MICHIGAN
COURT OF APPEALS

CHARTER TOWNSHIP OF FENTON,

Plaintiff-Appellee,

v

ROBERT MYERS,

Defendant-Appellant.

UNPUBLISHED

December 18, 2003

No. 242757

Genesee Circuit Court

LC No. 01-070508-CZ

Before: Fitzgerald, P.J., and Neff and White, JJ.

MEMORANDUM.

Defendant appeals as of right from a judgment requiring him to abate a nuisance on his property. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff filed this action to compel removal of a shed erected on defendant's property in violation of various ordinances. Defendant admitted that the shed was in violation of the ordinances but contended that the township was guilty of selective enforcement. The trial court found no evidence of selective enforcement and granted plaintiff's motion for summary disposition.

Defendant's sole issue on appeal is that the trial court erred in entering a judgment without first holding a separate hearing. We disagree. Because plaintiff established that the shed was in violation of the ordinance and defendant failed to establish selective enforcement, the shed constituted a nuisance per se and the court was required to issue an injunction to have it abated. MCL 125.294. Defendant's reliance on MCR 3.310(A)(1) is misplaced because plaintiff never sought a preliminary injunction.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Janet T. Neff

/s/ Helene N. White