

STATE OF MICHIGAN
COURT OF APPEALS

DALE LAVERN PASCK and EDITH
ELIZABETH HOGAN,

UNPUBLISHED
July 20, 2004

Plaintiffs-Appellants,

v

GARY W. HOWELL, HOWELL FARM LTD,
GRAVEL CREEK ASSOCIATES, and
CHRISTINE HOWELL,

No. 248817
Lapeer Circuit Court
LC No. 01-030468-CK

Defendants-Appellees.

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

PER CURIAM.

Plaintiffs appeal as of right the trial court's grant of summary disposition to defendants. At issue was plaintiffs' claim that the easement for ingress and egress to their property entitled them to use the easement for electrical and utility services, and to cut down trees to install electrical poles and overhead wires. We affirm.

This Court reviews the trial court's grant or denial of summary disposition *de novo*. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). A motion for summary disposition pursuant to MCR 2.116(C)(10) tests the factual support of a claim. The motion should be granted if the evidence demonstrates that no genuine issue of material fact exists, and that the moving party is entitled to judgment as a matter of law. *MacDonald v PKT, Inc*, 464 Mich 322, 332; 628 NW2d 33 (2001). For the most part, plaintiffs argue that reasonableness should be the rule in determining the scope of their easement, as is the case with an implied easement of necessity. This case, however, involves an express, written easement. "The scope of an *express* easement cannot be unilaterally expanded." *Schumacher v Dep't of Natural Resources*, 256 Mich App 103, 106; 663 NW2d 921 (2003), emphasis in original. The scope of an easement is determined by the language of the grant. *Unverzagt v Miller*, 306 Mich 260, 266-267; 10 NW2d 849 (1943). Although under certain circumstances an easement for ingress and egress can be ambiguous and subject to interpretation by a court, the easement agreement here is not ambiguous. "Where the language of a legal instrument is plain and unambiguous, it is to be enforced as written and no further inquiry is permitted." *Little v Kin*, 468 Mich 699, 700; 664 NW2d 749 (2003). As the trial court noted in its findings, the express agreement here provided that the easement could not be expanded except in writing signed by all

parties, and that the written agreement contained the parties' entire understanding. The trial court did not err in granting defendants' motions for summary disposition.

Affirmed.

/s/ Brian K. Zahra
/s/ Michael J. Talbot
/s/ Kurtis T. Wilder