STATE OF MICHIGAN

COURT OF APPEALS

PONNI KUMARATURU,

Plaintiff-Appellant,

v

NORMAN M. WEAST,

Defendant-Appellee.

UNPUBLISHED
August 12, 2004

No. 246093
Wayne Circuit Court
LC No. 01-134433-NZ

Before: Cavanagh, P.J., and Jansen and Saad, JJ.

PER CURIAM.

Plaintiff appeals as of right the summary dismissal of her premises liability action pursuant to MCR 2.116(C)(10). We affirm.

On August 4, 2000, as plaintiff was leaving work for the day, she tripped on a piece of molding protruding from the staircase in the building that defendant owned and her employer leased. Thereafter, she filed this action. Defendant moved for summary disposition, arguing that the alleged defect was open and obvious and did not possess special aspects that created an unreasonable risk of harm. The trial court agreed, and this appeal followed.

Plaintiff contends that the condition was not open and obvious and, if it was, there were special aspects that made the condition unreasonably dangerous. After de novo review, we disagree and conclude that plaintiff failed to establish a genuine issue of material fact. See *Dressel v Ameribank*, 468 Mich 557, 561; 664 NW2d 151 (2003).

Plaintiff claims that the raised wood molding at the top of the stairway that caused her to trip was not obvious as evidenced by the facts that she traversed the stairs on several prior occasions without observing the condition and, further, a plant placed near the area obstructed it from plain view. However, a dangerous condition is open and obvious when it is visible or apparent upon casual inspection to a reasonable person of average intelligence. *Hughes v PMG Bldg, Inc*, 227 Mich App 1, 10; 574 NW2d 691 (1997). Here, plaintiff admitted that after she fell she saw that the molding was not flush with the floor; thus, the condition was apparent upon casual inspection. See *Lugo v Ameritech Corp, Inc*, 464 Mich 512, 523-524; 629 NW2d 384 (2001). The photographs of the condition also support this conclusion. Further, the condition did not create an unreasonable risk of harm. Contrary to plaintiff's assertion, the risk presented by this condition is not comparable to that posed by an unrailed rooftop porch as in the case of *Woodbury v Bruckner (On Remand)*, 248 Mich App 684, 694; 650 NW2d 343 (2001). In fact,

here, there was a railing at the location of the alleged defect which mitigated any associated danger. In sum, the trial court's summary dismissal of this action was not erroneous because plaintiff failed to establish a prima facie case of negligence.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Kathleen Jansen
/s/ Henry William Saad