STATE OF MICHIGAN

COURT OF APPEALS

B & B GROUP, LLP,

Plaintiff-Appellee-Cross-Appellant,

v

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY, MICHIGAN DEPARTMENT OF NATURAL RESOURCES, and MICHIGAN DEPARTMENT OF TREASURY,

Defendants-Appellants-Cross-Appellees,

and

CTI AND ASSOCIATES, INC, JOSEPH L. HARDIG, JR., HARDIG, MCCONNELL, GOETZ AND P ALMIERE, P.C., and TELESIS PETROLEUMS, INC,

Defendants.

UNPUBLISHED
October 28, 2004

No. 247065
Oakland Circuit Court
LC No. 2001-034805-CH

Before: Donofrio, P.J., and White and Talbot, JJ.

PER CURIAM.

Defendants Michigan Department of Environmental Quality, Michigan Department of Natural Resources, and Michigan Department of Treasury appeal as of right following an order of summary disposition quieting title in favor of plaintiff B & B Group. At issue in this case was the effect of a boilerplate conveyance, labeled a "deed," that contained additional typewritten provisions conveying the property for not more than a twenty-year period. Defendants argued that the conveyance was a lease and therefore not subject to a tax foreclosure sale. MCL 211.182. The trial court found, however, that ownership of the property had been quitclaimed to plaintiff's predecessor, and that plaintiff was now the title holder of the land following a tax sale purchase, and granted plaintiff summary disposition. We reverse and remand for further proceedings.

As the trial court noted, "all three governmental defendants argue[d] that the conveyance was a lease, and not a deed." "Under ordinary contract principles, if contractual language is clear, construction of the contract is a question of law for the court. . . . The language of a contract should be given its ordinary and plain meaning." *Meagher v Wayne State University*, 222 Mich App 700, 721-722; 565 NW2d 401 (1997). When there is an "inconsistency between the printed provisions of a form and the language inserted by the parties, the latter is held to prevail because it is the immediate language of the parties, selected by them, and it, therefore more safely and clearly indicates their intention." *Thompson v Thompson*, 330 Mich 1, 10; 46 NW2d 437 (1951). As the trial court reasoned, a quitclaim deed generally conveys "all the grantor's interest in the described property, unless some interest is expressly excepted or reserved." *Thomas v Steuernol*, 185 Mich App 148, 154-155; 460 NW2d 577 (1990). We find, however, that the conveyance at issue here clearly did "except and reserve" defendants' interest. On its face, the language of the conveyance specifically reserved the state's interest and did not transfer ownership of the property itself. The language inserted by the parties set out a twenty-year term, which was to end on April 30, 2005, and provided that the property was to return to defendants earlier if plaintiff no longer needed it for the storage of sand and gravel.

Thus, the property here should not have been sold at a tax foreclosure sale. State lands are generally exempt from property taxes, MCL 211.7l, and, although a private user is taxed as if it were the owner, MCL 211.181(1), overdue taxes do not become a lien on the property. MCL 211.182. When property is sold at a tax sale in error, as was done here, MCL 211.98 provides for cancellation of the sale. Thus, the tax deed issued in this case is void and plaintiff is entitled to a refund. MCL 211.98.

In light of our decision, we need not address the parties' remaining issues.

Reversed and remanded for calculation of plaintiff's damages under MCL 211.98. We do not retain jurisdiction.

/s/ Pat M. Donofrio
/s/ Helene N. White
/s/ Michael J. Talbot