

STATE OF MICHIGAN
COURT OF APPEALS

TERRYL E. MASSE,

Plaintiff-Appellant,

v

DOUGLAS JOHN HARDING and VALERIE
ANN HARDING,

Defendants-Appellees.

UNPUBLISHED

May 17, 2005

No. 252083

Otsego Circuit Court

LC No. 01-009165-CH

Before: Murphy, P.J., and White and Smolenski, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the trial court's order granting defendants' motion for summary disposition and dismissing his action to quiet title. We reverse and remand. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendants' property does not have direct access to a public road. To access the public road, defendants must cross both plaintiff's property and a portion of Lorayne Sinclair's property. In 1999, plaintiff sought to quiet title to that portion of defendants' easement that crossed his property. On October 9, 2000, the trial court determined that defendants' easement was valid. Thereafter, plaintiff acquired a life estate in that portion of the adjacent Sinclair property burdened by defendants' easement. After acquiring the life estate, plaintiff filed another quiet title action seeking to invalidate that portion of defendants' easement that crossed the life estate acquired from Sinclair. On January 18, 2002, the trial court granted defendants' motion for summary disposition on the grounds that plaintiff lacked standing to bring the quiet title action. See MCR 2.116(C)(5). This appeal then followed.¹

¹ Defendants assert that plaintiff's appeal is not timely. However, this Court dismissed plaintiff's earlier appeal as premature because the January 18, 2002, grant of summary disposition was not a final order. See *Masse v Harding*, unpublished order of the Court of Appeals, entered September 18, 2003 (Docket No. 250347). The trial court's October 23, 2003 order denying plaintiff's motion to amend the complaint was the final order closing the case. Consequently, plaintiff's appeal is timely.

We review a trial court's decision on a motion for summary disposition de novo. *Auto Club Group Ins Co v Burchell*, 249 Mich App 468, 479; 642 NW2d 406 (2001).

Any person, regardless of whether he is in possession of the land, who claims any right in, title to, interest in, or right to possession of the land, may bring an action in circuit court against any other person who claims or who might claim any inconsistent interest in the land. MCL 600.2932(1). A life estate is a freehold estate in the subject property. MCL 554.5. Hence under MCL 600.2932(1), plaintiff had standing to bring an action challenging the validity of the easement burdening his life estate.²

Reversed and remanded. We do not retain jurisdiction.

/s/ William B. Murphy
/s/ Helene N. White
/s/ Michael R. Smolenski

² We express no opinion on the merits of the underlying claim, or defendant's other arguments for affirmance, which should be addressed by the trial court on remand.