

STATE OF MICHIGAN
COURT OF APPEALS

LESLIE STONE and ALOHA A. STONE,

Plaintiffs/Counter-Defendants-
Appellants,

v

PETER ALBIN and CHERI ALBIN,

Defendants/Counter-Plaintiffs-
Appellees.

UNPUBLISHED
November 30, 2006

No. 262352
Genesee Circuit Court
LC No. 02-074181-CH

Before: White, P.J., and Zahra and Kelly, JJ.

PER CURIAM.

Plaintiffs appeal by right from an adverse judgment in this property dispute. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214 (E).

Plaintiffs sued defendants, their neighbors in rural Genesee County. Both parties claimed ownership of a narrow strip of land. On the day set for trial, the parties negotiated a settlement and placed that agreement on the record in open court. Both attorneys spoke, and the parties consented to the negotiated terms. When defendants' attorney offered a proposed judgment, consistent with the terms expressed on the record, plaintiffs objected, claiming that there had been no meeting of the minds, and that the parties "interpreted" the settlement agreement differently.

The trial court entered an interim judgment and permanent injunction in defendants' favor, adopting the language of the settlement agreement. Subsequently, the trial court entered a consistent final judgment.

The agreement set forth on the record meets the requirements of former MCR 2.507(H). That rule, now MCR 2.507(G), provides:

An agreement or consent between the parties or their attorneys respecting the proceedings in an action, subsequently denied by either party, is not binding unless it was made in open court, or unless evidence of the agreement is in writing, subscribed by the party against whom the agreement is offered or by that party's attorney.

A settlement agreement reached under MCR 2.507(H) [(G)] is enforceable as a contract. *Michigan Mut Ins Co v Indiana Ins Co*, 247 Mich App 480, 484; 637 NW2d 232 (2001). Contract issues are questions of law, which we review *de novo*. *Morley v Auto Club of Michigan*, 458 Mich 459, 465; 581 NW2d 137 (1998). Questions regarding the equitable remedy of rescission are reviewed for an abuse of discretion. *Lenawee County Bd of Health v Messerly*, 417 Mich 17, 26; 331 NW2d 203 (1982).

We find that the settlement agreement that was placed on the record was the grant of a license by defendants to plaintiffs. In that license, defendants placed certain limitations on the use of the disputed property by plaintiffs, and retained ownership in themselves. We find too that the agreement was clearly expressed, and that no party or attorney had any reservations.

The interim judgment offered by defendants reflected the wording of the settlement nearly verbatim. We conclude that plaintiffs' subjective views of the settlement do not control the terms that were the subject of the agreement placed on the record. *Burkhart v Bailey*, 260 Mich App 636, 656; 680 NW2d 453 (2004).

A "license" is a grant of authority or permission to do an act, or series of acts, on the land of the licensor without the licensee gaining any permanent interest in the property. *Kitchen v Kitchen*, 465 Mich 654, 658-659; 641 NW2d 645 (2002). The settlement agreement plainly stated that defendants granted a license, properly expressing that grant in a series of permitted uses of the disputed property by plaintiffs.

We reject plaintiffs' claim that there was a "mutual mistake" entitling them to rescission as equitable relief. The record shows that there was no mutual mistake and that plaintiffs were negligent in assuming that they acquired anything but the license that they agreed to in open court. *Messerly*, *supra* at 36; *Gortney v Norfolk & Western R Co*, 216 Mich App 535, 542; 549 NW2d 612 (1996).

Applying ordinary principles of contract law to the recorded settlement agreement leads us to conclude that the parties and their attorneys intended to be bound by what was clearly expressed on the record. On these facts, the trial court did not abuse its discretion in refusing to set the settlement agreement aside.

Affirmed.

/s/ Helene N. White
/s/ Brian K. Zahra
/s/ Kirsten Frank Kelly