STATE OF MINNESOTA

IN SUPREME COURT

A19-0573

Court of Appeals — Chutich, J.

St. Paul Park Refining Co. LLC,

Respondent,

vs.

Filed: November 4, 2020
Office of Appellate Courts

Brian Domeier,

Appellant.

Robert B. Bauer, Matthew J. Schaap, Dougherty, Molenda, Solfest, Hills & Bauer P.A., Apple Valley, Minnesota, for respondent.

Erik F. Hansen, Elizabeth M. Cadem, Burns & Hansen P.A., Minneapolis, Minnesota, for appellant.

S Y L L A B U S

Under paragraph 2 of Minnesota Statutes section 541.02 (2018), a claim of adverse possession to any portion of a separately assessed parcel requires the adverse claimant to pay taxes for at least five consecutive years unless a statutory exemption under paragraph 3 applies.

Affirmed.

O P I N I O N

CHUTICH, Justice.

This case considers whether a person claiming part of a parcel under adverse possession must, before initiating the claim, pay real estate taxes previously assessed on the land. In particular, the issue here is the correct interpretation of Minnesota Statutes section 541.02, and its provision in paragraph 2 that a claim of adverse possession to "real estate assessed as tracts or parcels separate from other real estate" requires the adverse claimant to have paid taxes "on the real estate in question" for at least five consecutive years. Appellant Brian Domeier (Domeier) asserts adverse possession over a portion of two separately assessed parcels in Washington County owned by respondent St. Paul Park Refining Co. LLC (the Refinery). The district court ruled against Domeier's claim for both parcels and granted summary judgment to the Refinery.

Relying on the standard developed in *Grubb v. State*, under which taxes must be paid only if the claim is to "all or substantially all" of the separately assessed parcel, 433 N.W.2d 915, 920 (Minn. App. 1988), the court of appeals affirmed the district court's grant of summary judgment to the Refinery on Domeier's adverse possession claim for the west parcel. *St. Paul Park Refin. Co. LLC v. Domeier*, 938 N.W.2d 288, 293–94 (Minn. App. 2020). The court reversed the grant of summary judgment to the Refinery on Domeier's adverse possession claim for the east parcel, concluding that the percentage claimed did not trigger the tax-payment requirement in section 541.02. *Id*. at 294.

Domeier sought review of the court of appeals' decision that his adverse possession claim to the west parcel failed. He contends that he was not required to pay taxes because

his claim to just over half of the west parcel was not "substantially all" of the parcel under the *Grubb* standard. He alternatively asserts that the plain meaning of the statute requires tax payment only for a claim to an entire separately assessed parcel.

We granted Domeier's petition for review. Because the plain language of the statute, read as a whole with its exemptions, requires tax payment on a portion of a parcel, we affirm the decision of the court of appeals that Domeier's claim of adverse possession to the west parcel fails, although on different reasoning.

FACTS

Since 1998, Domeier has owned property near the parcels at issue here, and has used a portion of those parcels by, for example, clearing trails, hiking, removing invasive plants, and extracting sand for construction. In 2003, Domeier acquired property adjoining the two parcels. In 2010, the Refinery acquired fee title to the two separately assessed parcels, identified by Washington County Parcel ID Numbers 36.028.22.34.0039 (the west parcel) and 36.028.22.43.0001 (the east parcel) (collectively, the parcels). And in 2016, the Refinery discovered Domeier's presence on the parcels because he had by then planted trees and a garden and erected a deer fence. The Refinery sued Domeier, claiming trespass and ejectment. Domeier then counterclaimed for adverse possession, trespass, and ejectment, alleging that he possessed "a substantial portion" of the parcels.

The Refinery moved for partial summary judgment, asserting that under Minnesota Statutes section 541.02, Domeier's failure to pay taxes on the parcels precluded adverse possession. Domeier acknowledged that he had not paid taxes on the parcels. At the district court's request to define his claim precisely, Domeier commissioned a land survey

and demarcated a claim to 3.22 acres (52.19 percent) of the west parcel and 2.11 acres (5.32 percent) of the east parcel. The district court then granted the Refinery's motion. Domeier did not acquire the adjoining property until 2003, which is less than the 15 years required under paragraph 1 to establish a boundary line by adverse possession. *See* Minn. Stat. § 541.02. Accordingly, the district court found that Domeier's claim was not a boundary line dispute, and did not meet the boundary line exemption to tax payment set forth in the statute. *See id.* (stating that the tax-payment requirement does not apply boundary line disputes). Based on the undisputed fact that Domeier never paid taxes on the parcels, the district court found that his claim of adverse possession failed as a matter of law.

The court of appeals affirmed the district court's decision as to the west parcel, but reversed as to the east parcel. The court concluded that Domeier's claim to 52 percent of the west parcel was "substantially all" of the parcel and therefore, under *Grubb*, required tax payment. *St. Paul Park Refin.*, 938 N.W.2d at 293–94 (discussing *Grubb*, 433 N.W.2d at 920). Because Domeier's claim to 5 percent of the east parcel was not a claim to "substantially all" of the parcel, the court ruled that this claim did not require tax payment. *Id.* We granted Domeier's petition for review.

ANALYSIS

We review a grant of summary judgment de novo. *Kelly v. Kraemer Constr., Inc.*, 896 N.W.2d 504, 508 (Minn. 2017). "A district court may grant summary judgment when 'there is no genuine issue as to any material fact' and one party 'is entitled to judgment as a matter of law.' " *Id.* (citation omitted). A genuine issue of material fact exists when

"there is sufficient evidence regarding 'an essential element . . . to permit reasonable persons to draw different conclusions.' " *Id.* (quoting *DLH, Inc. v. Russ*, 566 N.W.2d 60, 71 (Minn. 1997)). And we view the evidence in the light most favorable to the nonmoving party. *Id.*

Domeier's claim turns on statutory interpretation, which we review de novo. *Christianson v. Henke*, 831 N.W.2d 532, 535 (Minn. 2013). The first step is to determine whether the language of the statute is ambiguous. *500, LLC v. City of Minneapolis*, 837 N.W.2d 287, 289 (Minn. 2013). We interpret statutory language to "ascertain and effectuate" the Legislature's intent. Minn. Stat. § 645.16 (2018). "When we conclude that a statute is unambiguous, our 'role is to enforce the language of the statute and not explore the spirit or purpose of the law.' " *Christianson*, 831 N.W.2d at 537 (quoting *Caldas v. Affordable Granite & Stone, Inc.*, 820 N.W.2d 826, 836 (Minn. 2012)). In doing so, we construe the law to "give effect to all its provisions." Minn. Stat. § 645.16; *Allan v. R.D. Offutt Co.*, 869 N.W.2d 31, 33 (Minn. 2015). We presume that the "[L]egislature intends the entire statute to be effective and certain." Minn. Stat. § 645.17(2) (2018). In ascertaining the plain meaning of the statute, we construe "words and phrases . . . according to rules of grammar and according to their common and approved usage." Minn. Stat. § 645.08(1) (2018).

To succeed on a claim of adverse possession, an adverse claimant must show that her possession was "actual, open, continuous, hostile, and exclusive" for 15 years. *Todd v. Weed*, 86 N.W. 756, 756 (Minn. 1901). In 1913, the Minnesota Legislature added an additional requirement—the payment of taxes—for certain claims. *See* Act of Apr. 11,

1913, ch. 239, § 1, 1913 Minn. Laws 331, 331 (codified as amended at Minn. Stat. § 541.02). Before enactment of the statute, paying taxes was strong—but not dispositive—evidence of adverse possession, and similarly non-payment of taxes was strong evidence of no adverse possession. *See Todd*, 86 N.W. at 757; *Dean v. Goddard*, 56 N.W. 1060, 1062 (Minn. 1893).

The statute has remained substantively unchanged since 1913 and is codified at Minnesota Statutes section 541.02. It reads in full:

> No action for the recovery of real estate or the possession thereof shall be maintained unless it appears that the plaintiff, the plaintiff's ancestor, predecessor, or grantor was seized or possessed of the premises in question within 15 years before the beginning of the action.
>
> Such limitations shall not be a bar to an action for the recovery of real estate assessed as tracts or parcels separate from other real estate, unless it appears that the party claiming title by adverse possession or the party's ancestor, predecessor, or grantor, or all of them together, shall have paid taxes on the real estate in question at least five consecutive years of the time during which the party claims these lands to have been occupied adversely.
>
> The provisions of the preceding paragraph shall not apply to actions relating to the boundary line of lands, which boundary lines are established by adverse possession, or to actions concerning lands included between the government or platted line and the line established by such adverse possession, or to lands not assessed for taxation.

Paragraph 1 provides a 15-year statute of limitations on ejectment. In other words, an adverse claimant must possess the land for at least 15 years. Paragraph 2, the focus of the parties' dispute here, provides an exception to the statute of limitations if the land at issue is separately assessed as tracts or parcels and the adverse claimant has paid taxes on the land for 5 consecutive years. That is, for land separately assessed as tracts or parcels, no adverse possession claim can succeed, even if occupied for more than 15 years, if taxes

have not been paid by the adverse claimant for 5 consecutive years. Paragraph 3 provides several exemptions to the paragraph 2 exception—notably for boundary line disputes, the most common subject of adverse possession. This exemption means, for example, that no tax payment is required when the adverse possession claim involves boundary line disputes between adjoining lands.

Having summarized the statute, we now turn to whether Domeier's claim to 52 percent of the west parcel is a claim to "real estate assessed as tracts or parcels separate from other real estate" that requires tax payment. Minn. Stat. § 541.02. Domeier contends that to require tax payment for a claim to anything less than an entire parcel would impermissibly insert "part or all of" into the language preceding the phrase "real estate assessed . . . separate from other real estate." To do so, he says, would "add words to an unambiguous statute under the guise of statutory interpretation." *328 Barry Ave., LLC v. Nolan Props. Grp., LLC*, 871 N.W.2d 745, 750 (Minn. 2015). The Refinery responds that the Legislature effectively codified our prior case law in which we observed that paying taxes on land supported a claim of adverse possession.

After carefully examining the statutory text, we conclude that under paragraph 2 of section 541.02, a claim of adverse possession to any portion of a separately assessed parcel requires the adverse claimant to pay taxes for at least five consecutive years unless a statutory exemption under paragraph 3 applies. We reach this conclusion for the following reasons.

First, Domeier's proposed interpretation ignores the interaction of the tax-payment requirement in paragraph 2 with the tax-payment *exemptions* in paragraph 3. Reading the

statute as a whole can aid in determining the plain, unambiguous meaning of the statute. *See State v. Prigge*, 907 N.W.2d 635, 640 (Minn. 2018). Here, the boundary line exemption of paragraph 3, which excuses tax payment in certain cases, can have an effect only if the tax-payment requirement in paragraph 2 would otherwise apply. *See* Minn. Stat. § 541.02 ("The provisions of [paragraph 2] shall not apply" to enumerated situations). Accordingly, the exemptions of paragraph 3 help us to discern the meaning of paragraph 2, namely, that tax payments must be made when a claim of adverse possession is made as to any portion of a separately assessed parcel.

Second, all but one of our prior cases under the statute involved boundary line disputes between adjoining properties. For example, in *Mellenthin v. Brantman*, we excused non-payment of taxes on a disputed strip between adjoining properties by noting that our prior cases had given the boundary line exemption "full support." 1 N.W.2d 141, 144 (Minn. 1941) (citing *Kelley v. Green*, 170 N.W. 922 (Minn. 1919), *Fredericksen v. Henke*, 209 N.W. 257 (Minn. 1926), *Riley v. Kump*, 212 N.W. 13 (Minn. 1927), and *Skala v. Lindbeck*, 214 N.W. 271 (Minn. 1927)). In contrast, in our only case that did not involve a boundary line dispute—*Bryant v. Gustafson*—we concluded that the adverse claimant was required to pay taxes. 40 N.W.2d 427, 433–34 (Minn. 1950).

If adverse possession of an entire separately assessed parcel is claimed, it is difficult to envision how the claim could also reasonably be defined as a boundary line dispute.[1] In

[1] Domeier's proposed construction of paragraph 2, which he suggests applies only to an entire separately assessed parcel, would make paragraph 3's exemptions superfluous. Very few, if any, boundary line disputes involve an entire separately assessed parcel.

fact, none of our prior cases applying section 541.02 involved a claim to an entire separately assessed parcel. *See Mellenthin*, 1 N.W.2d at 144 (collecting cases); *Ehle v. Prosser*, 197 N.W.2d 458, 462 (Minn. 1972).

Domeier cites several of our precedents in which we have broadly stated that a disputed portion of a parcel was excused from tax payment because the disputed portion was "not separately assessed." *See, e.g.*, *Skala*, 214 N.W. at 272 ("The fact that defendant paid no taxes on the [disputed land] is of no importance" because "[t]here is no proof . . . that this land was separately assessed."). Critically, as noted above, each of these cited cases involved boundary line disputes between adjoining properties. *See Mellenthin*, 1 N.W.2d at 144. We acknowledge that we have used broad language in the past when describing such disputed lands, but none of these cases closely analyzed the statutory text to support these statements. *See Kelley*, 170 N.W. at 923 (reciting the text of the statute and summarily concluding that "[i]t is plain that the proviso as to payment of taxes has no application to this case."). Accordingly, any language in these opinions regarding separately assessed parcels as the basis for the non-payment of taxes would be considered dicta. *See State v. Atwood*, 925 N.W.2d 626, 629 (Minn. 2019) ("We are bound to our prior statements or rulings on an issue only when the statement or ruling is necessary to the decision in the case.").

Nor do we agree with the court of appeals' approach as set out in *Grubb v. State*, 433 N.W.2d 915 (Minn. App. 1988). In *Grubb*, the adverse possession claim was to over

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Indeed, Domeier did not cite a single Minnesota case that involved a boundary line dispute in which an entire separately assessed parcel was claimed.

80 percent of the separately assessed parcel. *Id*. at 921. In reviewing the statute and our precedents, the *Grubb* court concluded that a claim to "all or substantially all" of a separately assessed parcel required tax payment. *Id.* at 918–20. This standard was adopted, it appears, because the *Grubb* court was concerned that an adverse claimant could "avoid the tax-payment requirement and consequent notice to the owner by claiming anything less than all" of the separately assessed parcel. *Id.* at 920. The court of appeals here relied on the *Grubb* "substantially all" standard to hold that Domeier's claim to the west parcel required tax payment.

Potential gamesmanship by the adverse claimant in adjusting the amount of land claimed is a valid concern. Under the plain language of section 541.02 and our analysis above, however, this concern is defused. A claim to *any* portion of a separately assessed parcel requires tax payment if there is no boundary line dispute. Thus, the prospect of an adverse possessor's attempt to avoid the tax-payment requirement is not a concern.

In sum, because nearly all boundary line disputes involve only a portion of a separately assessed parcel, so too must the tax-payment requirement. We therefore conclude that, when reading the statute as a whole, the plain, unambiguous meaning of "real estate assessed as tracts or parcels separate from other real estate" in section 541.02 means any portion of a separately assessed parcel.[2] Accordingly, the district court correctly

[2] We recognize that this interpretation raises the question of whether the adverse claimant must pay taxes on the whole, separately assessed parcel, or just the portion claimed. Because Domeier paid no taxes at all on the parcels, we need not answer that question here. We note, however, that we see no evidence that a county assessor would conduct an independent assessment on the portion claimed by adverse possession, and subdivision laws suggest that this approach may be prohibited. *See* Minn. Stat. § 462.358,

concluded that Domeier's adverse possession claim to the west parcel, on which he paid no taxes, fails as a matter of law.[3]

CONCLUSION

For the foregoing reasons, we affirm the decision of the court of appeals.

Affirmed.

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subd. 4b (2018). Nor would a proportional tax payment necessarily reflect the value of the claimed land because a portion of a parcel—like a shoreline—could be a small portion by area but a large portion of the total value of the parcel.

[3] The Refinery did not seek review of the court of appeals' decision concerning the east parcel, so that issue is not before us. We express no opinion as to the outcome of the parties' dispute regarding the east parcel when this matter returns to the district court.