

STATE OF MICHIGAN
COURT OF APPEALS

JACK J. GARRIS and HELEN GARRIS,

Plaintiff-Appellee,

v

GLEN ROY LET PROPERTY OWNERS
ASSOCIATION,

Defendant-Appellant.

UNPUBLISHED

September 20, 1996

No. 178046

LC No. 92-12253-CZ

Before: Markey, P. J., and McDonald and M. J. Talbot*, JJ.

PER CURIAM.

Defendant appeals as of right from an August 9, 1994, judgment granting plaintiffs' motion for summary disposition and quieting title to four disputed parcels by adverse possession. We affirm.

On appeal defendant claims the court erred in granting summary disposition alleging certain factual disputes remain. However, although defendant may have raised some contradictory facts with regard to some of the disputed parcels, they are not material facts because even assuming the facts are true, they are insufficient to overcome the overwhelming evidence of plaintiffs' acts of adverse possession. The court did not err in granting summary disposition pursuant to MCR 2.116(C)(10).

Defendant's claim parcels A and C were not subject to adverse possession on the theory public roads are not subject to adverse possession must fail.¹ The roadway in question is a private roadway maintained for the use of the subdivision owners. Where the incidents of adverse possession are complied with, platted land is no less subject to adverse possession than unplatted land. *Roberts v Duddles*, 47 Mich App 601; 209 NW2d 720 (1973).

Contrary to defendant's intimation, the subdivision restriction on Parcel C did not limit its use to parking but rather permitted parking on it. We therefore reject defendant's claim the "restriction" precluded a finding plaintiffs adversely possessed the property by using it for something other than parking.

* Circuit judge, sitting on the Court of Appeals by assignment.

Finally, the trial court did not err in quieting title to parcel D in plaintiffs pursuant to acquiescence. The law does not require an actual border dispute and settlement for application of acquiescence. *Corrigan v Miller*, 96 Mich App 205; 292 NW2d 181 (1980).

Affirmed. Costs to plaintiffs.

/s/ Jane E. Markey

/s/ Gary R. McDonald

/s/ Michael J. Talbot

¹ By statute, one cannot establish adverse possession against a municipal corporation with respect to a public highway, street or alley. MCL 600.5821(2); MSA 27A.5821(2).