STATE OF MICHIGAN

COURT OF APPEALS

CHARTER TOWNSHIP OF CHINA

Plaintiff-Appellee,

v

DANIEL GRIFFIN and MICHELLE GRIFFIN,

Defendants-Appellants.

UNPUBLISHED
October 25, 1996

No. 185168
LC No. 93-3034-CZ

Before: McDonald, P.J., and Bandstra and C. L. Bosman*, JJ.

PER CURIAM.

Defendants appeal as of right from a judgment and injunction in favor of plaintiff township regarding its claim defendants violated its zoning ordinance by conducting a commercial enterprise in their barn in an area zoned for agricultural use. We affirm.

Defendants argue plaintiff was equitably estopped from enforcing its zoning ordinance against them. We disagree. A municipality may not generally be estopped from enforcing its zoning ordinances, absent exceptional circumstances. *Twp of Pittsfield v Malcolm*, 375 Mich 135; 134 NW2d 166 (1965). Here, defendants' barn will still possess utility if its present use is barred; further, defendants did not begin construction in reliance on plaintiff's alleged representations defendants' use was acceptable to it, but rather in reliance on a building permit issued to defendants based on their repeated representations they would make conforming use of their building. Therefore, exceptional circumstances warranting estoppel do not exist here. *Id*.

Defendants also claim the trial court erred in ruling plaintiff's ordinance was reasonable as applied to them because the area surrounding their property was predominantly rural and commercial in nature and defendants' business therefore did not appreciably impact the area's general welfare. We disagree. The Court has already addressed this issue, holding in *Twp of Farmington v Scott*, 374 Mich 536; 132 NW2d 607 (1965), that such an argument is by its nature insufficient to overcome an ordinance's presumption of validity.

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

Defendants argue the trial court erred in issuing an injunction against them without determining whether their business constituted a nuisance in fact. We disagree. Pursuant to MCL 125.294; MSA 5.2963(24), the trial court was not required to find a nuisance in fact here because it had found defendants in violation of plaintiff's ordinance, creating a nuisance per se. See also *Towne v Harr*, 185 Mich App 230; 460 NW2d 596 (1990).

Affirmed. Costs to plaintiff.

/s/ Gary R. McDonald
/s/ Richard A. Bandstra
/s/ Calvin L. Bosman