

STATE OF MICHIGAN
COURT OF APPEALS

EVELYN I. HANSON,

Plaintiff-Appellant,

v

DONALD WAMSER and BETTY WAMSER,

Defendants-Appellees.

UNPUBLISHED
October 29, 1996

No. 183460
LC No. 93-081769-CH

Before: Gribbs, P.J., and Markey and T. G. Kavanagh,* JJ.

MEMORANDUM.

Plaintiff appeals as of right from the trial court's judgment in favor of defendants. Plaintiff brought a quiet title action, claiming to have acquired title to property owned by defendants through adverse possession. We affirm.

Actions to quiet title are equitable and therefore reviewed de novo; however, the trial court's factual findings are not reversed unless they are clearly erroneous. *Gorte v Dep't of Transportation*, 202 Mich App 161, 170; 507 NW2d 797 (1993). Adverse possession requires a showing of clear and cogent proof that possession has been actual, visible, open, notorious, exclusive, continuous, and uninterrupted for fifteen years. *Id.* at 170. Evidence of adverse possession must be strictly construed and every presumption is in favor of the true owner. *Comforto v Skirke*, 289 Mich 707, 710; 287 NW 353 (1939).

After a review of the record, we agree with the trial court that plaintiff has failed to meet her burden of proof. Specifically, plaintiff has failed to present clear and cogent evidence that her use of the parcel in question was of such and open and visible character as to clearly apprise defendants that she claimed ownership of the property. *Davy v Trustees of Protestant Episcopal Church*, 250 Mich 530, 533-534; 231 NW 83 (1930); *McQueen v Black*, 168 Mich App 641, 645 n 2; 425 NW2d 203 (1988). Even assuming that plaintiff considered the land to be her own, she failed to prove that her actions were such that defendants should have known of plaintiff's claim. When plaintiff's evidence is

* Former Supreme Court justice, sitting on the Court of Appeals by assignment.

looked at in conjunction with the high burden of proof and the presumption in favor of defendants, it is insufficient to support her claim.

Affirmed.

/s/ Roman S. Gibbs

/s/ Jane E. Markey

/s/ Thomas Giles Kavanagh