

STATE OF MICHIGAN
COURT OF APPEALS

PROTO-CAM, INC.,

Plaintiff-Appellant,

v

KENT COUNTY, KENT COUNTY REGISTER OF
DEEDS, and JOHN DUIVEN,

Defendants-Appellees,

and

FIRST MICHIGAN BANK,

Defendant.

Before: Fitzgerald, P.J., and Holbrook, Jr. and E.R. Post,* JJ.

PER CURIAM.

Plaintiff appeals as of right the order granting summary disposition pursuant to MCR 2.116(C)(7) in favor of defendant Duiven, an employee of the Kent County Property Mapping and Description Department, in this action alleging gross negligence under MCL 691.1407(2)(c); MSA 3.996(107)(2)(c).¹ We affirm.

Plaintiff argues that the trial court erred in granting summary disposition because defendant's conduct in thrice assigning an incorrect permanent parcel number to the property in question was grossly negligent. MCL 691.1407(2)(c); MSA 3.996(107)(2)(c). Moreover, plaintiff claims that defendant's error caused the damages it suffered in not exercising its right of first refusal regarding the property because plaintiff did not learn of the transfers in its title searches.

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

We review a question of law, such as the issue of governmental immunity in this case, de novo. *Cooper v Wade*, 218 Mich App 645; ___ NW2d ___ (1996). We consider all documentary evidence filed or submitted by the parties, accepting well-pleaded allegations as true and construing them in a light most favorable to plaintiff. MCR 2.116(G)(5); *Tryc v Michigan Veterans' Facility*, 451 Mich 129, 134; 545 NW2d 642 (1996).

The documentary evidence presented in this case precludes a finding that defendant's conduct amounts to gross negligence. Both parties agree that defendant incorrectly chose the number 428 over 427 in assigning a permanent parcel number to the property in question. This incorrect number was then used to file two additional warranty deeds regarding the property. However, there is no evidence that defendant's actions were "so reckless as to demonstrate a substantial lack of concern for whether an injury results." MCL 691.1407(2); MSA 3.996(107)(2). Instead, defendant mistakenly chose block number 428 as being closer to the property in question than the correct number 427. Plaintiff's factual allegations against defendant do not amount to anything more than ordinary negligence. Consequently, the trial court properly granted defendants' summary disposition motion. Because absence of gross negligence bars plaintiff's claim against defendant, we need not resolve whether defendant's conduct was the proximate cause of plaintiff's injury.

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Donald E. Holbrook, Jr.
/s/ Edward R. Post

¹ Plaintiff expressly abandoned its appeal against Kent County and the Kent County Register of Deeds.