STATE OF MICHIGAN

COURT OF APPEALS

ROBERT A. CORSINI,

Plaintiff-Appellant,

v

ROBERT CORSINI and JUDITH CORSINI,

Defendants-Appellees.

UNPUBLISHED
December 30, 1997

No. 197287
Oakland Circuit Court
LC No. 95-506378 NO

Before: McDonald, P.J., and Wahls and J. R. Weber*, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the summary dismissal of his premises liability action pursuant to MCR 2.116(C)(10). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff concedes that his status while on his parents' premises was that of a licensee. See e.g., *Bradford v Feeback*, 149 Mich App 67, 70; 385 NW2d 729 (1986). In *Preston v Sleziak*, 383 Mich 442, 453; 175 NW2d 759 (1970), our Supreme Court adopted 2 Restatement Torts, 2d, § 342, p 210, as correctly stating the duty that a landowner owes to an adult licensee:

> "A possessor of land is subject to liability for physical harm caused to licensees by a condition on the land if, but only if,
>
> "(a) the possessor knows or has reason to know of the condition and should realize that it involves an unreasonable risk of harm to such licensees, and should expect that they will not discover or realize the danger, and
>
> "(b) he fails to exercise reasonable care to make the condition safe, or to warn the licensees of the condition and the risk involved, and

---

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

"(c) the licensees do not know or have reason to know of the condition and the risk involved."

2 Restatement Torts, 2d, § 342, comment f, p 212, provides in pertinent part:

A licensee, in whose visit the possessor has no interest, is not entitled to expect that special preparations will be made for his safety or that the possessor will warn him of conditions which are perceptible by his senses, or the existence of which can be inferred from facts within the licensee's knowledge. The possessor is entitled to expect that the licensee, realizing all this, will be on the alert to discover conditions which involve risk to him. Indeed, it is not necessary that the condition be such as the licensee would discover by the use of his senses while upon the land. It is enough that from facts within his present or past knowledge he has reason to believe that a dangerous condition exists at that time.

In the instant case, plaintiff's deposition testimony established as a matter of law that he knew or had reason to know of the defective condition on the premises and the risk it posed. Accordingly, defendants owed no duty to plaintiff upon which liability may be attached.

We decline plaintiff's invitation to abolish the common law duty classification scheme of trespassers, licensees and invitees and to replace this scheme with an application of the ordinary negligence principles of foreseeable risk and reasonable care. This classification scheme is a product of Michigan common law established by the decisions of the Michigan Supreme Court. See e.g., *Bertrand v Alan Ford, Inc*, 449 Mich 606; 537 NW2d 185 (1995); *Dube v Northwestern Cooperage & Lumber Co*, 209 Mich 661; 177 NW 148 (1920); *Peklenk v Royale Copper Co*, 170 Mich 299; 136 NW 352 (1912). It is the Supreme Court's obligation to overrule or modify case law if it becomes obsolete. *Boyd v W G Wade Shows*, 443 Mich 515, 523; 505 NW2d 544 (1993). Until the Supreme Court takes such action, we are bound by that authority. *Id*.

Affirmed.

/s/ Gary R. McDonald
/s/ Myron H. Wahls
/s/ John R. Weber