

STATE OF MICHIGAN
COURT OF APPEALS

JOHN J. SHOLLY and JENNIE J. SHOLLY,

Plaintiffs-Appellees,

v

EVERETT SPARKS TRUST NO. 1,

Defendant-Appellant.

UNPUBLISHED

September 11, 1998

No. 203837

Hillsdale Circuit Court

LC No. 96-026692 CH

Before: Holbrook, Jr., P.J., and Wahls and Cavanagh, JJ.

MEMORANDUM.

Defendant appeals by right a judgment, entered on stipulated facts, which in effect holds that the action of the township in abandoning whatever public rights may have existed in a private drive between two lots in a platted subdivision (the one owned by plaintiffs and the other by defendant) was ineffective to deprive plaintiffs of the continued right to use the private drive as contemplated in the plat. We affirm.

Defendant contends that the action of the township was authorized by various provisions of the Subdivision Control Act (hereinafter the "Act"), MCL 560.101 *et seq.*; MSA 26.430(101) *et seq.* Putting the argument in this light reflects a misunderstanding of the rights a municipality may exercise under the Act. The mere sale of lots with reference to a plat does not constitute an irrevocable dedication of streets, alleys, drives, or other lands therein dedicated to the public. Rather, such an action amounts to a mere offer of dedication, which may be withdrawn if not accepted by the public within a reasonable time, or, having been accepted, may be abandoned by the public through appropriate governmental processes. *Pulcifer v Bishop*, 246 Mich 579, 582; 225 NW 3 (1929). However, it is equally the rule that the platting and sale of lots constitute a dedication of streets, etc., delineated on the plat, as between the grantors and the purchasers from them. *Jeffery v Lathrup*, 363 Mich 15, 21-22; 108 NW2d 827 (1961). As between the grantor and grantee and their successors, such rights are irrevocable. *Pulcifer, supra* at 582.

Hence, deeds conveying title to lands which have been platted entitle the owner to use of the land subject to use of private streets and ways laid down in the plat, regardless of whether there has

been a dedication and acceptance of such ways to the public, or whether the public may

have subsequently abandoned such ways. *Rindone v Corey Community Church*, 335 Mich 311, 316-317; 55 NW2d 844 (1953); *Nelson v Roscommon Co Road Comm*, 117 Mich App 125, 132; 323 NW2d 621 (1982). The township was free to abandon whatever public interests may have previously vested in such streets and ways in this platted subdivision, but its action could have no effect on plaintiff's' private property rights, which exist separate and apart from any such public rights. US Const, Am V; Const 1963, art 10, § 2.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Myron H. Wahls

/s/ Mark J. Cavanagh