

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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ZEINAB AWADA,

Plaintiff-Appellant,

v

GERARD METER and LISA METER,

Defendants-Appellees.

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UNPUBLISHED

August 25, 2005

No. 260261

Oakland Circuit Court

LC No. 2004-055261-NI

Before: Cooper, P.J., and Fort Hood and R.S. Gribbs\*, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's order granting defendants' motion for summary disposition in this premises liability case. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff, a housekeeper for defendants, was injured when she slipped on an area rug while walking backward as she cleaned a section of a hardwood floor. The rug was not equipped with slip protection. Plaintiff filed suit, alleging that defendants breached their duty to maintain the premises in a reasonably safe condition by failing to secure the rug and by failing to warn of the unsafe condition. Defendants moved for summary disposition pursuant to MCR 2.116(C)(10), alleging that they owed no duty to plaintiff because the condition was open and obvious, and that no special aspects made the condition unreasonably dangerous in spite of its open and obvious nature. The trial court granted the motion, concluding that the condition was not open and obvious, but that plaintiff was aware of the condition by virtue of the undisputed fact that she had lifted, manipulated, and replaced the rug on numerous occasions.

We review a trial court's decision on a motion for summary disposition de novo. *Auto Club Group Ins Co v Burchell*, 249 Mich App 468, 479; 642 NW2d 406 (2001). To establish a prima facie case of negligence, a plaintiff must prove: (1) that the defendant owed a duty to the plaintiff; (2) that the defendant breached the duty; (3) that the defendant's breach of duty proximately caused the plaintiff's injuries; and (4) that the plaintiff suffered damages. *Case v Consumers Power Co*, 463 Mich 1, 6; 615 NW2d 17 (2000).

A possessor of land has a duty to exercise reasonable care to protect an invitee from an unreasonable risk of harm caused by a dangerous condition on the land. The duty to protect an

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

invitee fails to extend to a condition from which an unreasonable risk of harm cannot be anticipated, or from a condition that is so open and obvious that an invitee could be expected to discover it for himself. *Bertrand v Alan Ford, Inc*, 449 Mich 606, 609; 537 NW2d 185 (1995).

The open and obvious danger doctrine attacks the duty element that a plaintiff must establish in a prima facie negligence case. *Id.* at 612. Whether a danger is open and obvious depends on whether it is reasonable to expect that an average person with ordinary intelligence would have discovered the danger upon casual inspection. *Novotney v Burger King Corp (On Remand)*, 198 Mich App 470, 474-475; 499 NW2d 379 (1993). If special aspects of a condition make even an open and obvious risk unreasonably dangerous, a possessor of land must take reasonable precautions to protect an invitee from that risk. If such special aspects are lacking, the open and obvious condition is not unreasonably dangerous. *Lugo v Ameritech Corp*, 464 Mich 512, 517-519; 629 NW2d 384 (2001).

We affirm the order granting summary disposition in favor of defendants. The trial court erred in concluding that the danger presented by the rug was not open and obvious because the danger of slipping on a rug placed on a hardwood floor is discoverable upon casual inspection by an average person with ordinary intelligence. *Novotney, supra*. Nonetheless, the order ultimately granting summary disposition was proper. The evidence established that plaintiff had cleaned defendants' home for more than one year, and had lifted, manipulated, and replaced the rug in the same location without incident on numerous occasions. On the day she was injured, plaintiff was mopping and walking backwards when she slipped on the rug. A reasonably prudent person will watch where she is going and will take appropriate steps to protect her own safety. *Bertrand, supra* at 616. Plaintiff had replaced the rug in its usual position only minutes before the accident occurred. Any risk of harm would have been obviated if plaintiff had watched her step without walking backwards. See *Spagnuolo v Rudds # 2, Inc*, 221 Mich App 358, 360; 561 NW2d 500 (1997). Summary disposition was proper.<sup>1</sup>

Affirmed.

/s/ Jessica R. Cooper  
/s/ Karen M. Fort Hood  
/s/ Roman S. Gribbs

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<sup>1</sup> In light of our disposition of the open and obvious issue, we need not address defendants' challenge to the nature of the aspects of the condition or the protection of a contractor argument.