

Court of Appeals, State of Michigan

ORDER

JBD Rochester LLC v Board of County Road Commissioners of
Oakland

Mark J. Cavanagh
Presiding Judge

Docket No. 279751

Kathleen Jansen

LC No. 2006-075062-CZ

Elizabeth L. Gleicher
Judges

The Court orders that the application for leave to appeal is DENIED for failure to persuade the Court of the need for immediate appellate review.

Judge Jansen dissents and states as follows:

Plaintiff argues that defendant “was obligated” to complete the road-widening project after condemning the property. It is true that property may only be taken for a public use. *Wayne Co v Hathcock*, 471 Mich 445, 471-472; 684 NW2d 765 (2004). However, I am unable to locate any caselaw or other authority to support the proposition that defendant was legally obligated to complete the road construction project. Nor is there any authority to suggest that plaintiff, itself, had a duty to complete the road construction project. Instead, plaintiff completed the road construction project on its own accord, hoping to expedite the permitting of its proposed office and commercial development. Any benefit conferred on defendant by plaintiff was therefore conferred voluntarily and gratuitously. Gratuitous, officious, or voluntary services will not support an unjust enrichment claim. 66 Am Jur 2d, Restitution and Implied Contracts § 14, pp 611-612; see also *Bowden v Grindle*, 651 A2d 347, 351 (Maine, 1994). Moreover, plaintiff’s unjust enrichment claim is equitable in nature. *Morris Pumps v Centerline Piping, Inc.*, 273 Mich App 187, 193; 729 NW2d 898 (2006). The general maxim is that equity will not aid a volunteer. See *Wyser-Pratte v Van Dorn Co*, 49 F3d 213, 218 (CA 6, 1995). I conclude that plaintiff’s complaint in this case failed to state a legally cognizable claim of unjust enrichment. I would therefore peremptorily reverse and grant summary disposition in favor of defendant. MCR 7.216(A)(7).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB 28 2008

Date

Sandra Schultz Mengel
Chief Clerk