

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

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DANIEL B. RINK, CATHERINE RINK,  
CATHERINE RINK REVOCABLE TRUST,  
RICHARD L. BISHOP, MARCIA A. BISHOP,  
CARL BLAUWKAMP, CARRIE  
BLAUWKAMP, LAVERNE BRUMMEL,  
MARCIA BRUMMEL, ANTHONY CASTILLO,  
VIRGINIA CASTILLO, RANDALL DEWILDE,  
LISA A. DEWILDE, PATRICK J. DIETRICH,  
CHERYL A. DIETRICH, ROBERT L.  
FERGUSON, BARBARA A. FERGUSON,  
ELIZABETH L. KRIMENDAHL, ROJELIO  
MARTINEZ, ANGELA MARTINEZ, DAVID  
NORTHROP, SHERYL NORTHROP, JOHN  
RUGGIERO, NANDA RUGGIERO, BARBARA  
L. SCAFFEDE, BARBARA L. SCAFFEDE  
DECLARATION OF TRUST, DALE  
TERPSTRA, MARY TERPSTRA, PHILLIP H.  
TUCKER, BARBARA A. TUCKER, DEANNA  
VAN DYKE, FRANCISCO W. YARDE, AMY  
M. YARDE, STEVEN E. VANDER VEEN,  
EILEEN E. VANDER VEEN, KRISTINE E.  
KORTMAN, MARK KORTMAN, JOYCE E.  
KORTMAN, JOYCE E. KORTMAN TRUST,  
THOMAS C. SLANEC and COREEN D.  
SLANEC,

Plaintiffs-Appellants,

and

FOREST BEACH EASEMENT HOLDERS, LLC,

Plaintiff/Counterdefendant-  
Appellant,

v

RICHARD S. RATCLIFF and PATRICIA C.  
RATCLIFF,

UNPUBLISHED  
March 23, 2006

No. 265517  
Allegan Circuit Court  
LC No. 04-036238-CZ

Defendants/Counterplaintiffs-  
Appellees.

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Before: Murphy, P.J., and White and Meter, JJ.

PER CURIAM.

Plaintiffs appeal by right from the trial court's order granting defendants' motion for summary disposition. We affirm.

This appeal concerns a dispute over Chicago Avenue, which is situated in lakefront property in the Chicago Addition to Macatawa Park in Laketown Township. Plaintiffs, owners of condominiums that are east of the Chicago Addition, claim valid easements over all roads and walks of the Chicago Addition, including Chicago Avenue, for ingress to and egress from the Lake Michigan shore. Defendants, owners of a parcel in the Chicago Addition, claim title to the part of Chicago Avenue that abuts their property.

The parties dispute whether the trial court properly ruled that a June 13, 2000, judgment granting defendants title through adverse possession to the part of Chicago Avenue adjacent to their property divested the plaintiffs' grantor of its claimed interest in Chicago Avenue. The circuit court in that case held as follows:

The Court finds in favor of plaintiff Richard Ratcliff on the claim against Defendant Timothy P. McAuliffe of adverse possession and accordingly orders and adjudges that Plaintiff Ratcliff is hereby vested with the fee simple title to that area of Chicago Avenue immediately adjacent to an [sic] contiguous to the lots owned by Ratcliff . . . within the Chicago Addition to Macatawa Park . . . and that Plaintiff Ratcliff is hereby vested with fee simple title in the above-described premises.

Plaintiffs assert that because their grantor, Forest Beach Joint Venture (FBJV), was not a party to the 2000 judgment, FBJV was not bound by that ruling and FBJV's conveyances of easements over Chicago Avenue to plaintiffs at later dates are valid and superior to defendants' claim in Chicago Avenue. We disagree.

A trial court's decision on a motion for summary disposition is reviewed de novo. *Dressel v Ameribank*, 468 Mich 557, 561; 664 NW2d 151 (2003). Summary disposition is appropriately granted if there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. MCR 2.116(C)(10) and (G)(5); *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999).

One need not be a party to litigation recognizing fee simple through adverse possession in order to be bound by that decision, because adverse possession creates a new title that extinguishes the rights of all others. *Gorte v Dep't of Transportation*, 202 Mich App 161, 168; 507 NW2d 797 (1993) ("upon the expiration of the period of limitation, the party claiming adverse possession is vested with title to the land, and this title is good against the former owner

and against third parties”) (citations omitted). Although both plaintiffs and defendants take great pains in arguing who were the actual parties to the 2000 judgment, their focus on parties is misplaced. The proper focus with regard to the 2000 judgment is its holding that, through decades of use, defendants acquired title to Chicago Avenue adjacent to their property. Our Supreme Court has held that title through adverse possession divests *all others* of any interest in property. In *Lawson v Bishop*, 212 Mich 691, 699; 180 NW 596 (1920), the Court noted:

Many titles are based on “squatters rights,” which after the statutory period ripen into perfect titles. Such a possession, whether with or without color of title, confers an indefeasible title in fee. . . . The title thus acquired is not that of the original owner, but a new title by which the rights of all others claiming any interest in the land have been extinguished.

In *Yatzak v Cloon*, 313 Mich 584; 22 NW2d 112 (1946), our Supreme Court also held that, regardless of whether defendants had actual knowledge of the plaintiff’s use of land at issue, conveyance to the defendants was erroneous, because “plaintiff and her husband had already acquired title to the disputed area by adverse possession and the conveyance [to defendants] could not revive title in property that had already been lost.” *Gorte, Lawson, and Yatzak* establish that title through adverse possession is new title that extinguishes the rights of all others. We find that the June 2000 judgment recognizing defendants’ title in Chicago Avenue extinguished FBJV’s claimed title in Chicago Avenue.

Plaintiffs argue that the adverse possession doctrine is superceded by MCR 3.411(H), which establishes that a “judgment determining a claim to title . . . or other interests in lands under this rule, determines only the rights and interests of the known and unknown persons who are parties to the action . . . .” We disagree. MCR 3.411(H) applies to real property actions in certain cases where adverse possession is not a basis for a party’s claim to a specific parcel of property. However, where adverse possession is the basis for a party’s claim, MCR 3.411(H) does not apply because title through adverse possession is valid title as against everyone, whether a party to a given suit or not. See *Lawson, Yatzak, and Gorte, supra*.

Plaintiffs cite *Schweikart v Stivala*, 329 Mich 180, 189-190; 45 NW2d 26 (1950), and *Bean v Bean*, 163 Mich 379, 396; 128 NW 413 (1910), in support of their position that under MCR 3.411(H), real property judgments apply only to the parties thereto. Plaintiffs’ reliance on these two cases is misplaced. Neither *Schweikart* nor *Bean* articulates any rule regarding the applicability of adverse possession judgments to nonparties. In *Schweikart*, the Court merely recited language in a prior trial court decree that *specifically limited* an adverse possession ruling to the parties involved. *Schweikart, supra* at 188-189. *Schweikart* did not articulate a rule that is contrary to that of *Lawson, Yatzak, and Gorte*. In *Bean*, the Court’s off-hand comment that nonparty Urania Bean (over whose land a part of the claimed driveway crossed) would be unaffected by its judgment was unnecessary to the case’s determination, because neither Urania Bean nor anyone else raised the issue of an adverse possession judgment’s effect on nonparties. *Bean, supra* at 396. In neither case did the Court expressly or implicitly establish a rule that adverse possession judgments apply only to the parties thereto. For these reasons, neither *Schweikart* nor *Bean* is dispositive here.

Because the June 2000 judgment recognized and established defendants’ title in Chicago Avenue adjacent to their property through adverse possession, that judgment divested plaintiffs’

grantor of its claimed interest in Chicago Avenue. The conveyance of easements in Chicago Avenue to plaintiffs was erroneous. Plaintiffs' claimed easements in Chicago Avenue are therefore void.

Affirmed.

/s/ William B. Murphy  
/s/ Patrick M. Meter

I concur in result only.

/s/ Helene N. White