

STATE OF MICHIGAN
COURT OF APPEALS

CHRISTOPHER THOMAS RICARD,

Plaintiff-Appellant,

v

STEVEN A. MCCALDEN and SUE ANN
MCCALDEN,

Defendants-Appellees.

UNPUBLISHED
September 21, 2004

No. 247472
Oakland Circuit Court
LC No. 2002-043270-CH

Before: Borrello, P.J., and Murray and Fort Hood, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order granting defendants' motion for summary disposition on the ground that plaintiff's claims were barred by the statute of limitations. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court's ruling on a motion for summary disposition is reviewed de novo. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000). In the absence of disputed facts, the question whether a cause of action is barred by the statute of limitations is a question of law. *Boyle v General Motors Corp*, 468 Mich 226, 229-230; 661 NW2d 557 (2003).

A claim for fraud or misrepresentation must be brought within six years from the time the claim accrues. MCL 600.5813; *Blue Cross & Blue Shield of Michigan v Folkema*, 174 Mich App 476, 481; 436 NW2d 670 (1988). A claim accrues "at the time the wrong upon which the claim is based was done regardless of the time when damage results." MCL 600.5827. The term "wrong" as used in § 5827 refers to the date on which the plaintiff was harmed by the defendant's tortious conduct, not the date on which the defendant acted. *Stephens v Dixon*, 449 Mich 531, 534-535; 536 NW2d 755 (1995). Plaintiff was injured when he did not get what he bargained for, *Mayhall v A H Pond Co, Inc*, 129 Mich App 178, 185; 341 NW2d 268 (1983), which was in December 1994, when he learned that he had a house with a wet basement.

Under the discovery rule, the limitations period does not begin to run until the plaintiff discovers, or through the exercise of reasonable diligence should have discovered, that he had a possible cause of action. *Brennan v Edward D Jones & Co*, 245 Mich App 156, 159; 626 NW2d 917 (2001). "[W]hether the plaintiff discovered or should have discovered a cause of action is an objective test." *Poffenbarger v Kaplan*, 224 Mich App 1, 11; 568 NW2d 131 (1997),

overruled in part on other grounds by *Miller v Mercy Mem Hosp Corp*, 466 Mich 196; 644 NW2d 730 (2002). The plaintiff need only discover that a possible cause of action exists, not that a likely cause of action exists. *Gebhardt v O'Rourke*, 444 Mich 535, 544; 510 NW2d 900 (1994). The limitations period begins to run once the plaintiff is aware of an injury and its possible cause. *Solowy v Oakwood Hosp Corp*, 454 Mich 214, 223; 561 NW2d 843 (1997).

Because the discovery rule does not apply to the accrual of fraud claims, *Boyle, supra* at 231, the trial court did not err in granting defendants' motion regarding that count of the complaint. Although the trial court erroneously applied the discovery rule to plaintiff's fraud claim, this Court will not reverse when the trial court reached the right result for the wrong reason. *Taylor v Laban*, 241 Mich App 449, 458; 616 NW2d 229 (2000).

There is authority that the discovery rule applies to negligent misrepresentation claims. *Williams v Polgar*, 391 Mich 6; 215 NW2d 149 (1974). Nevertheless, we find that the trial court did not err in determining that plaintiff's claim was time-barred. Defendants represented in 1994 that they had experienced slight water seepage in the basement but no flooding. Plaintiff bought the house and experienced flooding in December 1994, and again in June 1996. Although plaintiff did not know for a fact until November 2001, that defendants may have experienced more extensive problems than they disclosed, the significant discrepancy between the basement as represented and its actual condition, which was known to plaintiff before August 1996, gave him reason to suspect that the disclosure statement misrepresented the water problem in the basement. Therefore, the trial court did not err in dismissing plaintiff's claim for negligent misrepresentation.

Affirmed.

/s/ Stephen L. Borrello
/s/ Christopher M. Murray
/s/ Karen M. Fort Hood