

STATE OF MICHIGAN
COURT OF APPEALS

KIMBERLY THOMAS,

Plaintiff-Appellant,

v

JAMES GORCZYK,

Defendant-Appellee.

UNPUBLISHED

December 26, 2000

No. 217859

Wayne Circuit Court

LC No. 97-736634-NO

Before: McDonald, P.J., and Neff and Fitzgerald, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court order granting summary disposition to defendant. Specifically, plaintiff contends that the trial court erred by determining that plaintiff's legal status was that of a licensee, rather than invitee, in ruling on the parties' cross-motions for partial summary disposition. We affirm.

Plaintiff slipped and fell on defendant's property and sought to recover damages based on defendant's alleged negligence. Generally, in the absence of a question of fact regarding a guest's purpose for being on the premises of a purportedly liable possessor of land, we review de novo a trial court's determination of the legal status of the guest. *Stitt v Holland Abundant Life Fellowship*, 462 Mich 591, 595; 614 NW2d 88 (2000); *White v Badalamenti*, 200 Mich App 434, 436; 505 NW2d 8 (1993). Plaintiff concedes that her sole purpose for entering defendant's land was to ascertain whether any of her mail had been improperly delivered there. Plaintiff had been a tenant at defendant's residence before his ownership, and her mail continued to be delivered there. Plaintiff's visit to defendant's residence on January 26, 1997, was her first return visit to the property since defendant purchased it in September 1996. Unfortunately, she slipped when descending defendant's front steps, and suffered injuries.

Each party moved for partial summary disposition; plaintiff contending that her legal status was that of an invitee, and defendant arguing that her legal status was that of a licensee. The trial court ruled that plaintiff was a licensee because defendant derived no economic benefit from plaintiff's purpose on his property, noting that defendant's girlfriend's invitation to plaintiff to enter the home while retrieving the mail did not qualify plaintiff as a social guest.

The trial court placed some reliance on 2 Restatement Torts, 2d, § 332, which outlines the definition of an invitee. However, our Supreme Court has since ruled that § 332 does not apply in Michigan. *Stitt, supra* at 603, 607. Rather, “to establish invitee status, a plaintiff must show that the premises were held open for a *commercial* purpose.” *Id.* at 604. The record shows that plaintiff’s sole purpose for entering defendant’s premises was to ascertain whether any of her mail had been delivered there. Thus, plaintiff is unable to satisfy our Supreme Court’s precondition to attaining invitee status. See *id.* Therefore, the trial court did not err in concluding that plaintiff was a licensee at the time of her injury on defendant’s property.¹

Plaintiff also contends that either § 177 or § 178 of the Restatement Torts, 2d, granted her a privilege to be on defendant’s property. We are not persuaded that the facts of the instant matter fall within the purview of those sections. Regardless, § 345(1) of the Restatement Torts, 2d, indicates that the liability of a possessor of land to an individual entering in the exercise of a privilege is the same as the liability to a licensee.

Finally, plaintiff contends that she was a social guest of defendant’s girlfriend on the basis of an invitation to briefly enter the home while obtaining her mail. Indeed, we have ruled that the social guests of tenants are entitled to invitee status. *Stanley v Town Square Cooperative*, 203 Mich App 143, 147-148; 512 NW2d 51 (1993) However, the trial court was not presented with any evidence upon which reasonable minds could conclude that plaintiff was a social guest at defendant’s residence. That she was allowed to enter defendant’s home on a January morning while her mail was collected is not tantamount to her being classified as a social guest. Accordingly, the trial court did not err in ruling that plaintiff was a licensee at the time of her fall on defendant’s property. Consequently, we conclude that the trial court did not err in granting defendant’s motion for partial summary disposition.

Affirmed.

/s/ Gary R. McDonald
/s/ Janet T. Neff
/s/ E. Thomas Fitzgerald

¹ To the extent that the trial court improperly based its ruling on § 332, reversal is not required where the trial court uses the wrong rationale to reach the correct result. *In re People v Jory*, 443 Mich 403, 425; 505 NW2d 228 (1993).