

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

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WILLIAM THOMPSON and DEBORAH  
THOMPSON,

UNPUBLISHED  
December 26, 2013

Plaintiffs/Counter-Defendants-  
Appellees,

v

No. 312182  
St. Clair Circuit Court  
LC No. 10-002379-CH

RUTH ANN LAPARL, MAYNARD GLENN  
LAPARL, ROBERT LOUIS LAPARL, and  
THERESA MARIE LAPARL,

Defendants/Counter-Plaintiffs-  
Appellants.

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Before: WILDER, P.J., and FORT HOOD and SERVITTO, JJ.

PER CURIAM.

Defendants, members of the LaParl family, appeal as of right the trial court's order quieting title for plaintiffs, William and Deborah Thompson, in a disputed piece of property. We affirm.

**I. BASIC FACTS**

This case centers on a 26-foot area of real property located between plaintiffs' and defendants' properties. Plaintiffs' lot abuts the western border of defendants' property. At some point in the early 1970s, defendant Ruth LaParl's parents erected a chain-link fence between the parties' properties. The fence, however, was built 26 feet east of the "true" boundary line. It was intended to prevent children from accessing and falling into a county drainage ditch, which was located to the west of the fence, and to prevent others from accessing a swimming pool that was located on defendants' lot. This pool was later removed at some point during the 1970s, and in 1987, the drainage ditch was filled with dirt, graded, and seeded with grass. According to defendant Robert LaParl, he and other family members mowed the disputed land before the drainage ditch was filled.

In 1993, plaintiffs began residing on their family's property and paying its real estate taxes. Deborah began personally maintaining the disputed property, and she planted several gardens along the fence. In 1998, plaintiffs acquired title to the property from relatives. At that time, a survey of plaintiffs' property was conducted, and it indicated that it did not include the

disputed property. Regardless, Deborah testified that she assumed that the documents stated that the land belonged to her and that she first learned of the inconsistency between the boundary and the fence in 2010. In 1998, plaintiffs installed an above-ground pool on the disputed property. Additionally, a swing set and sandbox were constructed in 1999. Plaintiffs also planted trees and installed a steel shed on the disputed property.

In January 2007, Robert and Theresa began residing at the LaParl family property. The two testified that they had a conversation with Deborah in 2007, during which Deborah acknowledged that the disputed property belonged to defendants. They also stated that Deborah offered to purchase the disputed property from them. At trial, Deborah denied that any such conversation occurred.

In September 2010, a pine tree fell over the fence and onto defendants' house. Theresa removed the tree, which caused an argument between her and Deborah. Theresa subsequently contacted Cottrellville Township and learned that plaintiffs' pool was located on defendants' property. Thereafter, Theresa sent plaintiffs a letter in which she demanded that they cease using the disputed land and remove their pool. Plaintiffs subsequently sued to quiet title to the disputed property, and defendants filed a counterclaim for trespass.

Following a bench trial, the trial court found that plaintiffs had no cause of action for their adverse possession claim because their possession of the disputed property was not "hostile." However, the trial court found that plaintiffs acquired title to the disputed property because both parties acquiesced in the fence as the boundary line for the statutory period of 15 years.

## II. ANALYSIS

"Actions to quiet title are equitable in nature; this Court reviews such actions de novo." *Sackett v Atyeo*, 217 Mich App 676, 680; 552 NW2d 536 (1996). "We review a trial court's findings of fact in a bench trial for clear error and its conclusions of law de novo." *Chelsea Investment Group LLC v City of Chelsea*, 288 Mich App 239, 250; 792 NW2d 781. "A finding is clearly erroneous if there is no evidentiary support for it or if this Court is left with a definite and firm conviction that a mistake has been made." *Id.* at 251 (citations omitted).

Defendants argue that the trial court misapplied the doctrine of acquiescence. Although there are three theories of acquiescence, the relevant theory involves "acquiescence for the statutory period." *Sackett*, 217 Mich App at 681. Under this theory, "acquiescence to a boundary line may be established where the line is acquiesced in for the statutory period irrespective of whether there has been a bona fide controversy regarding the boundary." *Id.* The relevant statutory period for this case is 15 years. See MCL 600.5801. In *Kipka v Fountain*, 198 Mich App 435, 438-439; 499 NW2d 363 (1993), this Court stated:

The law of acquiescence is concerned with a specific application of the statute of limitations to cases of adjoining property owners who are mistaken about where the line between their property is. Adjoining property owners may treat a boundary line, typically a fence, as the property line. If the boundary line is not the recorded property line, this results in one property owner possessing

what is actually the other property owner's land. Regardless of the innocent nature of this mistake, the property owner whose land is being possessed by another would have a cause of action against the other property owner to recover possession of the land. After fifteen years, the period for bringing an action would expire. The result is that the property owner of record would no longer be able to enforce his title, and the other property owner would have title by virtue of his possession of the land.

To determine where the parties believed the boundary line was located, we view "the evidence as a whole, as opposed to examining the various occurrences in isolation." *Walters v Snyder*, 239 Mich App 453, 458; 608 NW2d 97 (2000). It is the conduct of the parties that determines what the parties believed the boundary line to be. See *id.*

Defendants first argue the trial court misunderstood and misapplied the doctrine of acquiescence because it considered as evidence defendants' lack of objection to plaintiffs' use of the land. They attempt to distinguish the issue of whether they objected to plaintiffs' use of the disputed property from what they consider as the relevant issue – whether they treated the chain-link fence as a boundary line. There is significant overlap between these questions, and we conclude that the lack of an objection to plaintiffs' use of the land is relevant to whether defendants treated the chain-link fence as the boundary line. Our jurisprudence requires a trial court to "merely inquire[] whether the evidence presented establishes that the parties *treated* a particular boundary line as the property line." *Id.* Thus, it was appropriate for the trial court to consider as relevant defendants' lack of objection to plaintiffs' use of the disputed property. The fact of such an objection would have been evidence supporting defendant's assertion that defendants treated the surveyed boundary line, rather than the chain-link fence, as their property's boundary line. Conversely the absence of such an objection is evidence undermining defendant's assertion as to the proper boundary line.

Defendants also assert that the trial court misunderstood the doctrine of acquiescence because it applied *Killips v Mannisto*, 244 Mich App 256; 624 NW2d 224 (2001). Although there was disagreement in *Killips* over whether acquiescence or prescriptive easement applied to the plaintiffs' use of the defendant's driveway in that case, there was no disagreement that "acquiescence is a doctrine of property law applicable to boundary line disputes and that the reason for the rule is to promote peaceful resolution of boundary line disputes." *Id.* at 262 (Hoekstra, J., dissenting). Thus, the trial court's citation to *Killips* in the last line of its opinion does not show that it misunderstood the doctrine of acquiescence.

Defendants also argue on appeal that the trial court clearly erred in its findings of fact. Specifically, defendants claim that the trial court erred in failing to address the testimony that showed that Deborah had conversations with members of the LaParl family regarding her desire to purchase the subject property. But a trial court's findings need not be exhaustive. Instead, "[b]rief, definite, and pertinent findings and conclusions on the contested matters are sufficient, without overelaboration of detail or particularization of facts." MCR 2.517(A)(2). In its findings of fact, the trial court did not address the testimony offered by defendants, alleging that Deborah had offered to purchase the disputed property. However, the trial court did note in its findings of fact that Deborah and her family "treated the fence as a boundary between the two properties." Thus, the trial court implicitly found defendants' testimony not credible, and this

Court will not interfere in such determinations. *Johnson v Johnson*, 276 Mich App 1, 11; 739 NW2d 877 (2007).

Moreover, we are not left with a definite and firm conviction that the trial court erred in this regard. Not only was there a lack of objection by defendants to plaintiffs' use of the disputed property over the years, thereby *acquiescing* to them using it, but plaintiffs made substantial improvements to the land. Plaintiffs built a pool, a steel shed, a sandbox, and a swing set on the disputed land. They also planted large trees. By failing to object and allowing plaintiffs to exercise dominion and control over the disputed land, defendants' actions were patently inconsistent with a belief that they owned the disputed land. Moreover, although Robert and his grandfather before him may have mowed the southern portion of the disputed property, Robert also admitted that plaintiffs mowed the same portion. Additionally, it was undisputed that defendants only ordered plaintiffs to cease using the disputed property after they received information from the township in 2010 indicating the variance between the "survey" boundary line and the fence. Therefore, even assuming no tacking, with plaintiffs' possession starting in 1993, the 15-year statutory timeframe ended in 2008. Accordingly, defendants' treatment of the fence as not representing the boundary in 2010 was too late, and the trial court did not err in quieting title in favor of plaintiffs.

Affirmed. Plaintiffs, as the prevailing party, may tax costs pursuant to MCR 7.219.

/s/ Kurtis T. Wilder  
/s/ Karen M. Fort Hood  
/s/ Deborah A. Servitto