

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

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JOHN F. GILL,

Plaintiff-Appellant,

v

DARCY L. LEDY, a/k/a DARCY L. MCLEAN,

Defendant-Appellee,

and

PATRICK DAVID RICKLEY, GLADYS  
POMEROY, and COOLIDGE H. FRASER,

Defendants.

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UNPUBLISHED  
February 15, 2005

No. 251361  
Mackinac Circuit Court  
LC No. 02-005520-CK

Before: Fort Hood, P.J., and Griffin and Donofrio, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's judgment granting defendant's motion for summary disposition and quieting title to certain property in favor of defendant. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

This case concerns the location of a shared boundary line between parcels of property. Plaintiff owns property located immediately to the south of property owned by defendant. A 1986 survey placed the north boundary line of defendant's property thirty feet south of the center line of Keightley Street. A 2001 survey relocated the center line of Keightley Street, and in effect moved the north boundary line of defendant's property some fourteen feet to the north of its former position. Thereafter, plaintiff claimed that the north boundary line of his property had moved and was in fact some fourteen to fifteen feet north of its former position.

Plaintiff filed suit to quiet title to the disputed property.<sup>1</sup> Defendant moved for summary disposition pursuant to MCR 2.116(C)(8) and (10). In support of her motion, defendant

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<sup>1</sup> Plaintiff made similar claims against the non-participating defendants. Those defendants were  
(continued...)

submitted an affidavit from the daughter of her predecessors in interest. The affidavit stated that the southern boundary of the property, as shown in the 1986 survey, was marked by visible markers and was agreed to by her parents and plaintiff's predecessor in interest. Defendant asserted ownership of the disputed area pursuant to acquiescence and/or adverse possession.

The trial court found that defendant established ownership of the disputed property by acquiescence, and granted the motion for summary disposition pursuant to MCR 2.116(C)(10). The trial court concluded that the parties' predecessors in interest had acquiesced in the boundary line marked in the 1986 survey, and plaintiff's affidavits did not establish a question of fact to defeat defendant's claim of ownership under a theory of acquiescence.

We review the trial court's decision on a motion for summary disposition de novo. *Trepanier v Nat'l Amusements, Inc*, 250 Mich App 578, 582-583; 649 NW2d 754 (2002). An action to quiet title is equitable in nature. *Killips v Mannisto*, 244 Mich App 256, 258; 624 NW2d 224 (2001). We review the trial court's findings of fact for clear error, and its conclusions of law de novo. *Id.* Title to property can be obtained through acquiescence by: (1) acquiescence for the statutory period of fifteen years; (2) acquiescence following a dispute and agreement; or (3) acquiescence arising from the intention to deed to a marked boundary. *Walters v Snyder*, 239 Mich App 453, 457; 608 NW2d 97 (2000), citing *Sackett v Atyeo*, 217 Mich App 676, 681; 552 NW2d 536 (1996). A claim of acquiescence to a boundary line for the fifteen-year statutory period, MCL 600.5801(4), requires a showing by a preponderance of the evidence that the parties acquiesced in the line and treated it as the true boundary for the statutory period. *Killips, supra* at 260; *Walters, supra* at 456. A party seeking to establish a property boundary by acquiescence may tack the acquiescence of predecessors in title in order to demonstrate acquiescence for the statutory period. *Killips, supra*.

Plaintiff argues that the trial court erred by finding that defendant established acquiescence to the 1986 boundary line as the true boundary for the statutory period. We disagree and affirm the trial court's judgment quieting title to the disputed area in favor of defendant. A claim of acquiescence to a boundary line for the statutory period requires a showing that the parties treated the line as the boundary for the statutory period, regardless of whether there was a bona fide controversy regarding the boundary. *Walters, supra* at 456. A claim of acquiescence does not require that the possession be hostile or without permission. *Walters, supra*. The affidavit submitted by defendant established that the parties' predecessors in interest acquiesced in the boundary line later marked in the 1986 survey. The affidavits submitted by plaintiff asserted that plaintiff and his father mowed grass from time to time in the disputed area; however, the affidavits did not establish that this act was done with the belief or understanding that the boundary line marked in 1986 was *not* the true boundary. The trial court correctly found that the evidence did not create a question of fact regarding whether the parties' predecessors in interest and the parties themselves adhered to the boundary line marked in 1986 as the true boundary after 1986 and for the requisite statutory period. *Walters, supra*; *Killips, supra*.

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defaulted.

Affirmed.

/s/ Karen M. Fort Hood  
/s/ Richard Allen Griffin  
/s/ Pat M. Donofrio