If this opinion indicates that it is "FOR PUBLICATION," it is subject to revision until final publication in the Michigan Appeals Reports.

STATE OF MICHIGAN

COURT OF APPEALS

JOHN M. SANGER and MAUREEN S. SANGER,

Plaintiffs/Counterdefendants-Appellees,

v

JAMES IAN CLEMENTS and SUE COCHRAN CLEMENTS,

Defendants/Counterplaintiffs-Appellants.

UNPUBLISHED
September 11, 2026
9:28 AM

No. 375482
Oakland Circuit Court
LC No. 2022-195390-CH

Before: LETICA, P.J., and RICK and GARRETT, JJ.

PER CURIAM.

This case involves a boundary dispute between neighboring property owners. Plaintiffs, John M. Sanger (John) and Maureen S. Sanger (Maureen), filed this action alleging adverse possession, acquiescence, and trespass and sought to quiet title to the disputed strip of land on which defendants, James Ian Clements (Ian) and Sue Cochran Clements (Sue), erected a fence. Following a bench trial, the trial court determined the Sangers established their acquiescence and adverse-possession claims.[1] The Clements appeal by right the trial court's order quieting title to the disputed property in favor of the Sangers and challenge the court's previous opinion and order entered after the bench trial.[2] Because the trial court properly determined that the Sangers acquired title to the disputed property based on acquiescence, we affirm.

[1] The trial court also determined that the Sangers established their trespass claim, but that claim is not at issue in this appeal.

[2] The Sangers erroneously assert that this Court lacks jurisdiction over this appeal because the trial court's June 26, 2024 opinion and order entered after the bench trial was a final order, which the Clements failed to appeal within 21 days. See MCR 7.202(6)(a)(i); MCR 7.204(A)(1). Although the trial court ruled in favor of the Sangers following the bench trial, it ordered the parties to

I. FACTS AND PROCEDURAL HISTORY

The Sangers live on Puritan Avenue in Birmingham, Michigan, and the Clements live on the neighboring property. The Sangers' predecessors in interest, Valerie and Alex Morton,[3] acquired their property in 1975. At that time, the Ivorys lived next door where the Clements now live. In 1979, the Mortons and the Ivorys installed a picket fence between their properties. According to Valerie, the Mortons maintained the property on the south side of the fence, and she planted flowers and shrubs along their side of the fence. The Clements acquired the Ivorys' property in May 1995. According to Ian, the picket fence "ran right along" the Mortons' driveway and the property line, while Valerie claimed there was a strip of land between the fence and the driveway. In 1996, Ian removed the picket fence and installed a privacy fence that, according to him, was located one foot away from the picket fence, closer to his home. Ian asserted he did not intend to install the privacy fence on the property line. Valerie, however, claimed the privacy fence was installed in the same place as the picket fence.

Valerie continued to plant flowers on the south side of the privacy fence and nailed a trellis to the fence. She planted morning glory vines, which climbed and covered the trellis as they grew. In July 1996, Ian sent the Mortons a letter that stated the privacy fence "is within our property line" and requested that the Mortons remove the trellis and vines immediately. According to Ian, he and Alex ultimately agreed that the Mortons could continue to maintain plants on the south side of the fence. Valerie denied any agreement and testified she and Alex owned the property south of the privacy fence.[4] According to Sue, the Mortons never claimed to own that strip of property. Sue maintained that she and Ian allowed the Mortons to use the property south of the privacy fence and never used that area themselves.

John Sanger's parents, David and Linda Sanger, acquired the Mortons' property in November 2011. The Sangers began living there at that time and acquired the property from David and Linda in December 2017. The Sangers did not discuss where the property line was with the Mortons but believed the privacy fence was the property line. Rose bushes were growing along the south side of the privacy fence when the Sangers moved in. In addition to maintaining the rose bushes, the Sangers stored firewood and placed a basketball hoop and golf net in the disputed area. According to Sue, the Clements agreed shortly after the Sangers moved in that the Sangers could plant flowers in the disputed area. Ian testified he and Sue did not use the area and did not discuss the property line with the Sangers until 2022.

---

conduct a survey to develop a legal description of the disputed property. After the parties did so, the court entered the final order quieting title to the disputed property in favor of the Sangers and requiring the Clements to remove any portion of the fence situated on the disputed property. Accordingly, the June 26, 2024 opinion and order was not a final order that disposed of all claims and adjudicated the parties' rights. See MCR 7.202(6)(a)(i). We therefore have jurisdiction over this appeal.

[3] We refer to the Mortons individually by their first names.

[4] Alex, having died before trial, did not testify.

In 2016, the Sangers installed a gate across their driveway. One of the gate posts was in the disputed area between the driveway and the privacy fence. The Clements did not discuss the gate with the Sangers when it was installed. In September 2018, the Clements obtained a survey of their property. Ian testified he and Sue were aware in 2018 that the Sangers' gate post was on their property, while Sue testified they were not aware of that fact until May 2022. But, in September 2020, Sue sent Maureen a text message stating: "[W]hen we replace the fence we will move it to the property line now that we know where it is[.]"

The Sangers replaced their driveway in May 2022, and the construction encroached onto defendants' property. On June 20, 2022, the Clements sent the Sangers a letter, stating that the Sangers had known, "since moving next door, that the fencing which separates our lots, as well as the property adjacent to the fence is our property." The Clements claimed they had spoken to the Sangers "on numerous occasions, about using that land for plantings etc. but not putting anything permanent on our land." The Clements indicated they were in the process of replacing the fence. Thereafter, they removed the privacy fence and installed a new fence along what they believed was the property line. Ian claimed the new fence was "[w]ithin a couple inches" of the original picket fence.

The Sangers filed this action, alleging they and the Mortons adversely possessed the disputed property continuously for at least 15 years. They also alleged that the Clements acquiesced to the Sangers' and the Mortons' exclusive use and possession of the property for more than 26 years, and the Clements trespassed onto the disputed property by installing a fence on it. The Sangers requested that the trial court enter an order quieting title to the disputed property in their favor and requiring the Clements to remove the new fence. The Clements counterclaimed, alleging the Sangers trespassed onto their property by constructing part of their gate on the property. The Clements sought an order quieting title to the disputed property in their favor.

At trial, the Clements sought to introduce handwritten notes that Sue made from September 28, 2018 through July 12, 2022. The parties stipulated to introduce the notes as the Clements' Exhibit R. During Sue's testimony, the trial court remarked: "I just find it so curiously convenient that you have this notebook. So in the notebook pages that you've produced as Exhibit R, they are all about the Sangers." Defense counsel acknowledged Exhibit R contained "reproduction[s] of entries" in the notebook. The trial court required the Clements to produce the original notebook and stated, "[W]e'll take a break for you to run home and get that document." The court recessed, but reconvened one minute later and stated, "I'm not going to take up everyone's time to allow that. Instead, I'm striking Exhibit R and any testimony that relates to Exhibit R, okay." After defense counsel noted that the parties stipulated to admit Exhibit R, the court stated, "[I]t is improper and inadmissible for my review. So I'm making the decision that it is being stricken."

After trial, the trial court issued an opinion and order favoring the Sangers. The court found that the privacy fence "was a minimum of two feet north of the property line" based on the Clements' 1995 mortgage survey. The court noted that Ian's 1996 letter to the Mortons "d[id] not indicate that the Clements claimed their property extended south of the fence, only that the fence was within their property line." The court found that Valerie planted flowers and shrubs in the disputed area and that Valerie's plantings were in existence when the Sangers moved onto the property. Regarding Sue's testimony, the court stated that Sue testified she discussed ownership of the disputed strip of property with Maureen on at least two occasions, and Maureen

acknowledged the Clements owned the strip of property. The court determined that Sue's testimony in this regard was not credible and noted that Maureen denied the conversations occurred. The court determined that the Sangers established their acquiescence claim because they, the Mortons, and the Clements treated the privacy fence as the property line for at least 15 years. The court also determined that the Sangers acquired the property by adverse possession because they and the Mortons possessed it "in an actual, visible, open, notorious, exclusive, continuous and uninterrupted manner since at least 1996." The court directed the parties to hire a surveyor to develop a legal description of the disputed property. Following the survey, the court entered a final order quieting title to the property in the Sangers' favor and requiring the Clements to remove any portion of the fence that encroached onto the property. The Clements now appeal.

II. ACQUIESCENCE AND ADVERSE POSSESSION

The Clements argue there was no evidence the parties acquiesced to the privacy fence as the property line, and the Sangers could not tack the Mortons' alleged acquiescence and adverse possession to satisfy the 15-year statutory period for both claims. We conclude the trial court did not err by allowing the Sangers to tack the Mortons' use of the disputed property onto their own use or by determining the Sangers acquired title to the disputed property by acquiescence.

A. STANDARDS OF REVIEW

"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 (2010). A finding is clearly erroneous if it lacks evidentiary support or if we are left with a definite and firm conviction that a mistake was made. *Id*. at 251. We accord the trial court's findings great deference because that court is in a better position to examine the facts. *Id*. We review de novo rulings in equitable actions, including actions to quiet title. *Houston v Mint Group, LLC*, 335 Mich App 545, 557; 968 NW2d 9 (2021).

B. DISCUSSION

"Under Michigan law, parties may acquiesce to a new property boundary line." *Id*. at 567. Acquiescence may be established when a preponderance of the evidence shows "the parties treated a particular boundary line as the property line." *Id*. (quotation marks and citation omitted). "The statutory period for acquiring property by acquiescence is 15 years." *Id*. at 567-568; see also MCL 600.5801(4). Thus, "[t]he doctrine of acquiescence provides that where adjoining property owners acquiesce to a boundary line for at least fifteen years, that line becomes the actual boundary line." *Killips v Mannisto*, 244 Mich App 256, 260; 624 NW2d 224 (2001). Acquiescence can arise only "when there has been some agreement, whether tacit or overt, as to the location of the boundary . . . ." *Houston*, 335 Mich App at 568 (quotation marks and citation omitted). Adverse possession, on the other hand, requires a party to present "clear and cogent proof of possession that is actual, continuous, open, notorious, exclusive, hostile, and uninterrupted for the relevant statutory period." *Marlette Auto Wash, LLC v Van Dyke SC Props, LLC*, 501 Mich 192, 202; 912 NW2d 161 (2018). "Unlike adverse possession, a claim of acquiescence does not require that possession of the land was hostile or without permission." *Houston*, 335 Mich App at 568.

The Clements argue the trial court erroneously allowed the Sangers to tack the Mortons' use of the disputed property onto their use to satisfy the 15-year statutory period. That argument is unavailing. "The acquiescence of predecessors in title can be tacked onto that of the parties in order to establish the mandated period of fifteen years." *Killips*, 244 Mich App at 260. Moreover, privity between the landowners and their predecessors in interest is not required. *Houston*, 335 Mich App at 568.[5] Because the Sangers began living at their property in November 2011 and filed their complaint in August 2022, tacking is necessary for them to satisfy the 15-year statutory period.

The record shows that the Mortons and the Clements treated the privacy fence as the property line for 15 years, from 1996 when Ian installed the fence to 2011 when the Mortons sold their home. In *Houston*, 335 Mich App at 570, this Court determined that the plaintiffs established their acquiescence claim when their predecessors in interest maintained a garden along the claimed property line. Similarly, Valerie planted flowers and shrubs along the privacy fence, and rose bushes were growing along the fence when the Sangers moved onto the property in November 2011. The Clements argue they did not treat the privacy fence as the boundary line as evidenced by Ian's 1996 letter to the Mortons stating that the fence was "within" the Clements' property. In the letter, Ian requested that the Mortons remove the trellis and morning glory vines on the privacy fence but never addressed Valerie's planting of flowers and shrubs on the disputed strip of land. Moreover, the Clements never presented evidence showing that they used the disputed property or objected to the Mortons' use of the property. To the extent the evidence shows any ambiguity, we give great deference to the trial court's findings of fact. See *Chelsea Investment Group*, 288 Mich App at 251.

When the Mortons sold their property and the Sangers moved onto the property in November 2011, they continued to landscape the strip of land at issue and used it for storage. They installed a gate across their driveway in 2016 and placed one of the gate posts on the disputed strip of land. The Clements did not object to these uses and did not claim ownership of the disputed property until 2022. Ian claimed he was aware the gate post was on his property after the 2018 survey. Sue also indicated, in her 2020 text message to Maureen, that she knew the actual location of the property line. By that point, however, the Clements, the Mortons, and the Sangers had treated the privacy fence as the property line for the requisite 15-year period. Because "a boundary line long acquiesced in . . . should not be disturbed on the basis of new surveys," *Houston*, 335 Mich App at 568, the Clements' efforts to claim the disputed property did not negate their prior acquiescence to treating the privacy fence as the property line. Accordingly, the trial court properly determined that the Sangers acquired title to the disputed property by acquiescence and quieted title in their favor. Given our determination regarding acquiescence, we need not address the Clements' argument that the trial court erred by ruling that the Sangers acquired title to the property by adverse possession.

[5] The Clements' reliance on caselaw related to revocable licenses is misplaced. Although a license to use the licensor's property "is automatically revoked upon transfer of title," *Kitchen v Kitchen*, 465 Mich 654, 658-659; 641 NW2d 245 (2002), a party claiming acquiescence need not show a license to use the disputed property. See *Houston*, 335 Mich App at 567-568.

III. EXHIBIT R

The Clements argue that the trial court erroneously excluded their Exhibit R, which consisted of handwritten excerpts from Sue's notebook. They argue that the parties stipulated to admit the exhibit, which was admissible under MRE 1006 as a summary to prove the content of Sue's notes regarding this property dispute. To preserve an evidentiary issue for appellate review, "a party must object at trial on the same ground that it presents on appeal." *Nahshal v Fremont Ins Co*, 324 Mich App 696, 709-710; 922 NW2d 662 (2018). After the trial court excluded Exhibit R and any testimony related to it, defense counsel responded, "[t]hat's fine[,]" and never argued Exhibit R was admissible as a summary of Sue's notes. Therefore, the Clements' challenge to the exclusion of Exhibit R is unpreserved.

MRE 103 pertains to claims of error involving the admission or exclusion of evidence. In *Wischmeyer v Schanz*, 449 Mich 469, 483; 536 NW2d 760 (1995), our Supreme Court stated, "Under MRE 103, we review unpreserved error and reverse only if the substantial rights of a party are affected." MRE 103(e) permits this Court to "take notice of a plain error affecting a substantial right, even if the claim of error was not properly preserved." To establish a plain error, a party must show that an error occurred, it was plain, and it affected the party's substantial rights. *Mr Sunshine v Delta College Bd of Trustees*, 343 Mich App 597, 601; 997 NW2d 755 (2022). A plain error affects substantial rights if the party was "prejudiced by the error such that it affected the outcome of the proceedings . . . ." *Id*. (quotation marks and citation omitted).

The Clements argue that Exhibit R was admissible under MRE 1006. That evidentiary rule allows "for summaries to be used as long as the materials from which the summaries were gathered are made available for examination." *Sabbagh v Hamilton Psychological Servs, PLC*, 329 Mich App 324, 357; 941 NW2d 685 (2019). MRE 1006 states:

> The proponent may use a summary, chart, or calculation to prove the content of voluminous writings, recordings, or photographs that cannot be conveniently examined in court. The proponent must make the originals or duplicates available for examination or copying, or both, by other parties at a reasonable time and place. And the court may order the proponent to produce them in court.

The record fails to show that Exhibit R was admissible under MRE 1006. The Clements assert that Exhibit R contained handwritten copies of excerpts of Sue's notebook entries. At trial, Sue testified that the excerpts were "exactly how [they] appear[ed] in the notebook." Therefore, Exhibit R did not contain a summary of anything, but rather, it contained exact reproductions of certain notebook entries. In addition, nothing indicates that the original entries or notebooks were voluminous. Because the Clements have failed to establish that Exhibit R was admissible under MRE 1006, they have failed to establish that plain error occurred.

Affirmed.

/s/ Anica Letica
/s/ Michelle M. Rick
/s/ Kristina Robinson Garrett