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STATE OF MICHIGAN

COURT OF APPEALS

JOCELYN BULLARD and GERRITT BOLLIN, also known as GERRIT BOLLIN,

Plaintiffs/Counterdefendants-Appellants,

v

GEOFFREY BULLARD and MARIA BULLARD,

Defendants/Counterplaintiffs/Cross-Plaintiffs-Appellees,

and

ESTATE OF LEWIS H. BULLARD,

Defendant/Cross-Defendant.

UNPUBLISHED
November 19, 2026
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No. 377987
Kalamazoo Circuit Court
LC No. 2024-000317-CZ

Before: O'BRIEN, P.J., and CAMERON and MALDONADO, JJ.

PER CURIAM.

Plaintiffs appeal as of right the trial court's order granting defendants'[1] motion for summary disposition under MCR 2.116(C)(7) (statute of limitations) and (10) (no genuine issue of material fact) and denying plaintiffs' competing motion for summary disposition under MCR 2.116(C)(10). We affirm.

[1] Plaintiffs named defendant Estate of Lewis H. Bullard in their complaint because a title search indicated that the late Lewis Bullard may have had an interest in the property in dispute in this case. The estate was ultimately dismissed as a party and makes no arguments on appeal. Thus, this opinion will refer to defendants-appellees as "defendants."

I. FACTUAL AND PROCEDURAL BACKGROUND

This case involves a real-property dispute between siblings and their spouses. In 1992, Anna S. Bullard deeded real property to her three grandchildren, plaintiff Jocelyn, defendant Geoffrey, and their nonparty sister, Anna, as tenants in common, each holding an undivided equal one-third interest. In 1999, Geoffrey and Jocelyn, together with their respective spouses, Maria and Gerrit, agreed to purchase Anna's interest for $400,000, with each sibling obtaining a $200,000 loan to contribute toward the purchase price.

The parties co-owned the property without much incident until 2003, when plaintiffs defaulted on their loan, which was secured by their interest in the property. Defendants assumed plaintiffs' debt in order to keep the property from foreclosure, and plaintiffs' mortgage was discharged.

Although plaintiffs had previously contributed to the finances and management of the property, their involvement diminished significantly after their mortgage was discharged. According to plaintiffs, the parties orally agreed that Geoffrey would assume responsibility for managing the property's rental income to repay plaintiffs' mortgage, but Geoffrey refused to sign documents memorializing that agreement. Jocelyn testified that, beginning in 2003, she attempted to visit the property multiple times, but found the gates locked. Geoffrey also refused to provide her with financial records relating to the property.

Plaintiffs filed suit on May 29, 2024, asserting claims for quiet title and partition. Their complaint alleged that "Geoffrey and Maria have denied Jocelyn and Gerrit access to the Property[]" and "have refused to disclose financial information relating to the Property to Jocelyn and Gerrit." Defendants filed a countercomplaint asserting claims for quiet title, contribution, unjust enrichment, and declaratory judgment. Defendants maintained that they had adversely possessed the property as its sole owners since 2003.

The parties filed competing motions for summary disposition. Defendants argued that they had acquired title by adverse possession and that plaintiffs' complaint was barred by the 15-year statute of limitations. Plaintiffs argued that defendants had never formally disseised them of the property and that, consequently, their claims had not accrued. The trial court granted defendants' motion and denied plaintiffs' motion, concluding that the evidence presented demonstrated that defendants had disseised plaintiffs in 2003 by locking them out of the property and denying them access to its financial records. The trial court therefore determined that plaintiffs' claims were time-barred. Plaintiffs now appeal.

II. STANDARDS OF REVIEW

"This Court reviews de novo both the applicability of a statute of limitations and the trial court's ruling on a motion for summary disposition." *Dep't of Env Quality v Gomez*, 318 Mich App 1, 21; 896 NW2d 39 (2016) (citations omitted). "Summary disposition under MCR 2.116(C)(7) is appropriate when the undisputed facts establish that the plaintiff's claim is barred under the applicable statute of limitations." *Id*. (quotation marks and citation omitted).

> When reviewing a motion under MCR 2.116(C)(7), this Court must accept all well-pleaded factual allegations as true and construe them in favor of the plaintiff, unless

> other evidence contradicts them. If any affidavits, depositions, admissions, or other documentary evidence are submitted, the court must consider them to determine whether there is a genuine issue of material fact. If no facts are in dispute, and if reasonable minds could not differ regarding the legal effect of those facts, the question whether the claim is barred is an issue of law for the court. However, if a question of fact exists to the extent that factual development could provide a basis for recovery, dismissal is inappropriate. [*Id*. (quotation marks and citation omitted).]

"A motion under MCR 2.116(C)(10), on the other hand, tests the factual sufficiency of a claim." *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 160; 934 NW2d 665 (2019) (emphasis omitted). Similarly, "[w]hen considering such a motion, a trial court must consider all evidence submitted by the parties in the light most favorable to the party opposing the motion." *Id*. "A motion under MCR 2.116(C)(10) may only be granted when there is no genuine issue of material fact." *Id*. "A genuine issue of material fact exists when the record leaves open an issue upon which reasonable minds might differ." *Id*. (quotation marks and citation omitted).

III. ANALYSIS

Plaintiffs argue that the trial court erred by granting defendants' motion and denying their own. We disagree.

A. GOVERNING LAW

"Generally, an action for the recovery or possession of land must be brought within 15 years after it accrues." *Wengel v Wengel*, 270 Mich App 86, 92; 714 NW2d 371 (2006); see also MCL 600.5801(4).

> A claim of adverse possession requires clear and cogent proof that possession has been actual, visible, open, notorious, exclusive, continuous, and uninterrupted for the statutory period of fifteen years. These are not arbitrary requirements, but the logical consequence of someone claiming by adverse possession having the burden of proving that the statute of limitations has expired. To claim by adverse possession, one must show that the property owner of record has had a cause of action for recovery of the land for more than the statutory period. A cause of action does not accrue until the property owner of record has been disseised of the land. MCL 600.5829. Disseisin occurs when the true owner is deprived of possession or displaced by someone exercising the powers and privileges of ownership. [*Wengel*, 270 Mich App at 97 (quotation marks and citation omitted).]

The possession must also be hostile. *Id*.

> The term hostile as employed in the law of adverse possession is a term of art and does not imply ill will; rather, hostile use is that which is inconsistent with the right of the owner, without permission asked or given, and which would entitle the owner to a cause of action against the intruder. [*Id*. at 92-93 (quotation marks and citation omitted).]

Adverse possession presents a distinct challenge when the parties are cotenants. As this Court explained in *Wengel*, "a claim of adverse possession by a tenant against a cotenant, both sharing ownership interests in the property at issue, is not comparable to the usual scenario in which adverse possession arises[.]" *Id*. at 96. This is because, ordinarily, an individual asserting a claim for adverse possession "is occupying or possessing property to which he or she has no legal right to possess and which is titled in the name of another, making it easier to identify and determine hostile occupation, as compared to a situation in which there exists concurrent ownership." *Id*.

> Accordingly, there is a presumption, in the context of adverse possession, that a tenant who occupies and possesses the premises recognizes and is honoring the rights of any cotenants to similarly possess and occupy the property unless there is evidence of acts or declarations that clearly establish the contrary and that unambiguously provide notice to the cotenants of an effort to displace or exclude them from the premises in violation of their property rights such that a cause of action arises. While a tenant in common may acquire title against a cotenant by adverse possession, the proofs may not be made out by inference. [*Id*. at 97 (citations and parentheticals omitted).]

Thus, under *Wengel*, a cotenant asserting a claim of adverse possession must (1) provide evidence of "acts or declarations that clearly establish" the claimant's violation of their cotenant's possessory rights that (2) "unambiguously provide[s] notice" to the ousted cotenant of the claimant's "effort to displace or exclude them" in violation of their possessory rights.

B. EXCLUSIONARY CONDUCT

Plaintiffs argue that the conduct on which the trial court relied did not "dishonor" their possessory rights, and any finding beyond that would require an impermissible inference. They rely heavily on *Walchak v Walchak*, unpublished per curiam opinion of the Court of Appeals, issued April 25, 2024 (Docket No. 362896). "Although unpublished opinions of this Court are not binding precedent, they may . . . be considered instructive or persuasive." *Eager v Peasley*, 322 Mich App 174, 186 n 3; 911 NW2d 470 (2017) (quotation marks and citation omitted). But *Walchak*'s persuasive value is undermined by the significant factual distinctions between it and this case.

In *Walchak*, this Court characterized the plaintiff's conduct as "highly ambiguous and contradictory[,]" *Walchak*, unpub op at 9. This was because, although the plaintiff sometimes told the defendant that he had no right to the property, she also "reaffirmed [the] defendant's possessory interest by allowing him entry and recognizing his legal rights[]" by virtue of a 2017 deed listing him is a cotenant. *Id*. The plaintiff's conduct in *Walchak*, therefore, did not clearly establish the plaintiff's effort to exclude the defendant from the property.

The evidence here is materially different. Beginning in 2003, defendants kept the property's gate locked, preventing plaintiffs from accessing the property. Defendants also repeatedly refused plaintiffs' requests for the property's financial records. Unlike the contradictory conduct in *Walchak*, defendants' conduct toward plaintiffs consistently reflected their efforts to exclude plaintiffs by denying them access to the property.

Plaintiffs argue that the locked gate was insufficient because there was no evidence that defendants "locked the gate with a specific intent to exclude" plaintiffs, nor was their evidence showing that defendants denied plaintiffs access to the property after plaintiffs asked to gain access. As to intent, plaintiffs provide no legal authority requiring that a cotenant claiming adverse possession must demonstrate an intent to exclude only the other cotenant, rather than to exclude others generally. By failing to "cite any supporting legal authority" for their position, plaintiffs have abandoned this argument. *Prince v MacDonald*, 237 Mich App 186, 197; 602 NW2d 834 (1999).

Nor does *Walchak* establish that a cotenant's possessory rights are violated only when the cotenant expressly requests entry and is refused. Plaintiffs rely on *Walchak*'s observation that the record was "not clear on whether [the] defendant was ever denied access to the home or garage upon his request." *Walchak*, unpub op at 8. Read in context, however, that observation does not establish a categorical requirement that a cotenant must request access and be expressly denied entry before exclusion can be established. This Court addressed the issue in *Walchak* because the plaintiff had allowed the defendant onto the property generally but apparently restricted his access to certain areas or buildings. *Id*. The question in *Walchak*, therefore, was whether the defendant, despite being allowed onto the property, had been denied access to portions of it once inside in violation of his rights as a cotenant. No comparable distinction exists here. Defendants' locked gate prevented plaintiffs from accessing the property altogether.[2]

C. NOTICE

Plaintiffs next argue that defendants failed to establish that they "unambiguously provide[d] notice" to plaintiffs of defendants' efforts to oust them from the property. *Wengel*, 270 Mich App at 97. They rely on emails exchanged between Geoffrey and Jocelyn in 2016 and 2018 in which Geoffrey expresses interest in purchasing plaintiffs' interest in the property. According to plaintiffs, those communications acknowledged their ownership interests, and, therefore, undermined defendants' claim that plaintiffs were given adequate notice of their exclusion.

Plaintiffs' argument misconstrues the notice requirement. The rule is that defendants' acts must "unambiguously provide notice to the cotenants of an effort to displace or exclude them from the premises *in violation of their property rights*[.]" *Id*. (Emphasis added). Inherent in the emphasized portion of this rule is the understanding that the party asserting a claim of adverse possession is acting contrary to the *known rights* of their cotenant, not that they are denying the existence of their cotenant's rights entirely.

Plaintiffs also argue that the evidence only established, "[a]t best," an inference that defendants had excluded them from the property. We disagree. Jocelyn explicitly testified that she attempted to access the property on multiple occasions but could not do so because defendants had locked the gate. The locked gate was direct evidence of defendants' conduct, not merely circumstantial evidence from which exclusion might be inferred. Because the gate prevented

[2] Because this act, alone, is sufficient to rebut the presumption that defendants were still honoring plaintiffs' possessory rights, we need not address the other conduct the parties discuss.

plaintiffs from entering the property, its existence in and of itself unambiguously gave plaintiffs notice of their exclusion when Jocelyn first encountered it in 2003. This act constituted disseisin, as plaintiffs were "deprived of possession or displaced" by defendants, who were "exercising the powers and privileges of ownership." *Id*. at 92 (quotation marks and citation omitted).

Accordingly, plaintiffs' claim accrued in 2003. *Id*.; MCL 600.5829(1). They had 15 years, until 2018, to file suit, but did not. See, e.g., *id*. ("Generally, an action for the recovery or possession of land must be brought within 15 years after it accrues."). Plaintiffs' suit was time-barred, and summary disposition under MCR 2.116(C)(7) was appropriate.[3]

Affirmed.

/s/ Colleen A. O'Brien
/s/ Thomas C. Cameron
/s/ Allie Greenleaf Maldonado

[3] Plaintiffs also argue that the trial court's statute-of-limitations analysis was "backwards" because defendants, not plaintiffs, bore the burden of proving the elements of adverse possession. But defendants did not rely solely on adverse possession, nor did the trial court's decision rest solely on that theory. Defendants also argued, and the trial court found, that plaintiffs' complaint was untimely because they had failed to bring suit within 15 years of being disseised.