Order

Michigan Supreme Court
Lansing, Michigan

November 17, 2026

Megan K. Cavanagh,
Chief Justice

Brian K. Zahra
Richard H. Bernstein
Elizabeth M. Welch
Kyra H. Bolden
Kimberly A. Thomas
Noah P. Hood,
Justices

170401-2

SC: 170401
COA: 368823
Livingston CC: 2020-030887-CZ

JANE CISSELL, Trustee of the JANE SHERZER CISSELL TRUST,
Plaintiff/Counterdefendant-Appellee,

v

ROBERT BENNETT,
Defendant/Counterplaintiff-Appellant.

SC: 170402
COA: 368824
Livingston CC: 2023-031889-CZ

JANE SHERZER CISSELL,
Plaintiff/Counterdefendant-Appellee,

v

LORIE ANN BENNETT,
Defendant/Counterplaintiff-Appellant.

On order of the Court, the application for leave to appeal the April 17, 2026 judgment of the Court of Appeals is considered and, pursuant to MCR 7.305(I)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals holding that defendants Lorie Ann and Robert Bennett's claim of acquiescence fails entirely. As noted by concurring Judge TREBILCOCK, a preponderance of the evidence demonstrated that the parties' immediate predecessors—Jack Sherzer and Gerald Baumgras—mutually understood, for more than 15 years, that an old ash tree served as the properties' boundary

line, such that the alleged encroachments fell entirely on Baumgras's property. This tacit agreement for the statutory period means, by operation of the doctrine of acquiescence, that Baumgras acquired title to that portion of the disputed property to the old ash tree, which he then conveyed as part of his sale to defendants. See *Daley v Gruber*, 361 Mich 358, 362 (1960). We REMAND this case to the Livingston Circuit Court for a determination of the exact acquiesced-to boundary line based on the location of the old ash tree and to reinstate judgment in favor of defendants based on that determination.

We do not retain jurisdiction.

I, Elizabeth Kingston-Miller, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 17, 2026

Clerk

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