

STATE OF MICHIGAN
IN THE SUPREME COURT

PAT FOSTER

Supreme Court Case No. 157504-5

Petitioner-Appellant,

Court of Appeals No. 336937; 337278

v.

Circuit Court Case No. 16-56487-AW

GANGES TOWNSHIP AND JOHN
HEBERT, SUPERVISOR

Defendants-Appellees,

Legal Representation:

Pat Foster
Pro persona
6079 Mallard Street
Fennville, Michigan 49408
(269) 561-5268

Bradley J. Fisher (P64608)
Crystal J. Bultje (P80276)
Attorneys for Defendants
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PROOF OF SERVICE

Defendants' attorneys were served the following through TrueFiling:

1. Copy of Supreme Court Denial of Leave to Appeal dated 10-30-2018
2. Motion for reconsideration
3. Brief in support of motion for reconsideration
4. Plat Act of 1929

Pat Foster

Pat Foster, Petitioner-Appellant

11-20-2018

Date

Order

October 30, 2018

157504-5

PAT FOSTER,
Plaintiff-Appellant,

v

GANGES TOWNSHIP and GANGES
TOWNSHIP SUPERVISOR,
Defendants-Appellees.

SC: 157504-5
COA: 336937, 337278
Allegan CC: 16-056487-AW

Michigan Supreme Court
Lansing, Michigan

Stephen J. Markman,
Chief Justice

Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Kurtis T. Wilder
Elizabeth T. Clement,
Justices

On order of the Court, the application for leave to appeal the March 1, 2018 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.



t1022

I, Larry S. Royster, 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.

October 30, 2018

Clerk

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Clerk of the Court
Michigan Supreme Court
P.O. Box 30052
Lansing, Michigan 48909-7522

*** LANSING MI 488 10/30/18 ***

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GANGES TOWNSHIP AND JOHN HEBERT,
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MOTION FOR RECONSIDERATION

NOW comes Pat Foster, Plaintiff-Appellant to request that this Court reconsider its Oct. 30, 2018 denial of leave to appeal under MCR 7.311(G) based upon an unanswered question of law regarding the validity of a plat dedication on a private road to “adjacent property owners.” Second, whether the township complied with MCL 560.109(a) when it issued a building permit. Third whether Ganges Township’s previous Plat Act of 1929 Section 19(a) certification has been violated by the township. Two cases, SC: 157504-5 and SC: 154789 have been placed before this Court that require an answer to the question of the validity of the dedication on the plat. SC

15704-5 requires this Court to answer whether Ganges Township complied with MCL 560.109(a) and the Plat Act of 1929, Sec 19a. See Exhibit L3.

The Plat Act of 1929 and the Land Division Act of 1967 are the relevant statutes. Both acts are silent regarding dedications to “*adjacent property owners*” on a *private road*, but do provide for them by having Recreation Development Corporation, the developer dedicate the road as *public*, thereby having both sides of the road subject to the same laws. A plat that dedicates the road as private to both lot owners and adjacent property owners creates two classes of property owners subject to different laws. This issue ultimately requires a 14th Amendment analysis.

The developers reserved an easement for the benefit of strangers to the plat in 1965, i.e. to “adjacent property owners.” The doctrine of attempted reservation for the benefit of a stranger to the conveyance (which a platted dedication is) makes the attempted dedication of an easement to adjacent property owner invalid. “An attempted reservation for the benefit of a stranger to the conveyance is ineffective. “*Choals v Plummer*, 353 Mich 74 (1958), *Mott v. Stan Lake*, 63 Mich App. 440 (1975). A dedication is a conveyance. Therefore, the attempted dedication to adjacent property owners is invalid and the Township has permitted land divisions and issued building permits in violation of the Land Division Act.

The second issue is the violation of the Section 109(a) of the Land Division Act. It is undisputed that the building permits were issued on parcels less than one acre. There is no evidence that the Township complied with Section 105(g) of the LDA as required by Section 109(a). See building permit Exhibit G. Because the Township issued a building permit in 2016 in violation of MCL 560.109(a), the Township continues to permit the Land Division Act to be violated.

In 1965 when the plat was recorded for Subdivision No. 1 with the dedication at issue on it, the municipal government of Ganges Township certified that the plat was “in compliance with Section 19a” of the Plat Act of 1929. This section required the municipality to certify that the propriters of the plat provided for stormwater management as a condition of certification. The propriters provided for stormwater management be developing a common drainage system on the adjacent land they owed for the benefit of the lands they platted. Ganges Township has failed to enforce the 19a certification to the detriment of lot owners in Recreation Development Subsection No. 1. See Exhibit L3.

Recreation Development Corporation, the developer purchased a quarter section in Ganges Township consisting of approximately 48.2 acres of land in 1964. From that they created two platted developments. The first is on Lake Hutchins platted as Recreation Development Subdivision, while the second is on a channel created by the developers off of Lake Hutchins and was platted as Recreation Development Subdivision No. 1. It is the second subdivision that is relevant, and I will refer to it as “No. 1.” The two platted developments account for approximately 27.4 acres leaving approximately 20.8 acres as unplatted. 4.1 of those acres were conveyed by the developer to ERA Resorts in 1967. After accounting for the land excepted from the conveyance from the developer to the Sales’, the Sales’ couldn’t have conveyed more than 14.8 acres in 1977. Because the township issued a building permit in 2016 in violation of MCL 560.109(a), the township continues to permit the Land Division Act to be violated because of the 1998 conveyances (See Exhibits E) from the Sales’ to various parties did not contain the language required by MCL 560.108 and MCL 560.109. The township’s continued violation of the LDA is causing me damage by not accounting for the common drainage plan the township previously approved in 1965. See Exhibit L5.

RELIEF SOUGHT

Petitioner– Appellant requests that this Court accept my leave to appeal to present my case for oral argument in conjunction with Docket Number: SC 154789. Since Ganges Township is still issuing building permits to “adjacent property owners,” I request an injunction to stop the possible harm to lot owners and innocent purchasers of those properties until you can hear the case and make a decision on it. Thank you!

Pat Foster

Pat Foster, Plaintiff – Appellant

11-20-2018

Date