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IN THE
COURT OF APPEALS OF INDIANA

John A. Huntzinger,
Appellant-Plaintiff,

v.

Champion Lake Ski Club, Inc.,
and Bryan Burney
Appellees-Defendants.

March 9, 2021

Court of Appeals Case No.
20A-PL-1653

Appeal from the Hancock Superior
Court

The Honorable Marie Castetter,
Judge

Trial Court Cause No.
30D01-1909-PL-1926

Bradford, Chief Judge.

Case Summary

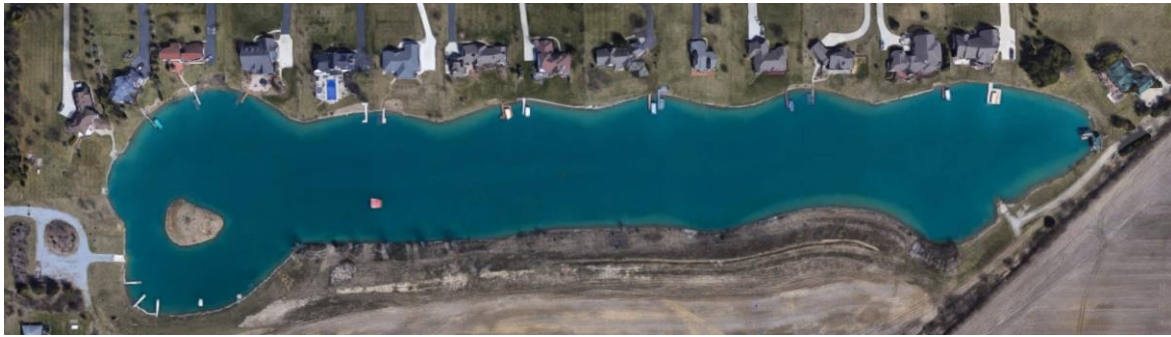
[1] John Huntzinger, subject to a mediated settlement (“the Settlement”), deeded a lake specifically created for water skiing to Champion Lake Ski Club, Inc. (“the

Ski Club”), in exchange for an inalienable lifetime right to ski on the lake. At the time of the transfer, Huntzinger owned property on the lake with a personal boat dock, like all other houses which sat on the lake. Eventually, Huntzinger sold his property on the lake while retaining the right to use the lake for water skiing for life. In February 2018, Huntzinger requested permission from the Ski Club to build a personal boat dock in the Common Area of the lake for his use in connection with water skiing. The Ski Club President Bryan Burney denied Huntzinger’s request to build the dock because the Ski Club believed Huntzinger’s lifetime right did not include the right to construct a dock in the Common Area. Huntzinger filed a complaint alleging a breach of Settlement and intentional interferences with contractual relationship, requesting injunctive relief against both the Ski Club and Burney to stop them from preventing the full exercise of his lifetime right. The trial court entered summary judgment in favor of the Ski Club and Burney. Huntzinger asserts that the trial court erred in doing so. Because we disagree, we affirm.

Facts and Procedural History

- [2] The Champion Lakes Estates Subdivision (“the Development”) is a subdivision comprised of a lake, a Common Area, and seventeen parcels on the north side of the lake, specifically designed for water skiing. There are homes built on fifteen of the Development’s parcels, each with a dock situated adjacent to the parcel on the lake. The Development also contains a Common Area, which includes three pier-docks and a boat ramp, located along the western side of the

lake. Huntzinger originally developed the Champion Lake Estates Subdivision through his corporation Mega Lakes, Inc., and originally owned one of the parcels with a house on it. The Ski Club is the homeowner's association at the Development. Below is a satellite image of the Development.



Champions Lake Ski Club, GOOGLE MAPS,

<https://www.google.com/maps/search/champion+lake+ski+club/@39.8833437,-85.9147328,440m/data=!3m1!1e3> (last visited February 22, 2021).

- [3] Sometime before August 1995, a dispute arose regarding the administration and governance of the Ski Club. In August 1995, a complaint¹ was filed in the Hancock Circuit Court against Mega Lakes, among other defendants. On February 13, 1997, the parties executed the Settlement, which was entered as a judgment of the court on May 29, 1997. The Settlement described the ownership and rights of the Development as follows:

¹ *Burdick, et al. v. Mega Lakes, Inc., et al.*, No. 30C01-9508-CP-286 (Hancock Circuit Court, May 29, 1997).

- [c]ontrol of and fee simple title to the lake . . . and [C]ommon [A]rea shall be transferred to [the Ski Club][;]
- [a]ll lake homeowners shall be guaranteed access to boat dock/Common [A]rea by easement[;]
- [t]he number of ‘A’ ski rights is limited to 15. ‘A’ ski rights can be transferred to any person owning a lakefront lot[;]
- [a] ‘Declaration of Ski Rights’ setting forth all terms and conditions of ‘A’ and ‘B’ ski rights shall be prepared and recorded in the Hancock County Recorder’s Office.

Appellant’s App. Vol. II p. 65. Section VII of the Settlement described

Huntzinger’s rights:

John Huntzinger shall retain one (1) inalienable lifetime ski right, in addition to any other “A” right he has as a lot owner subject to the following:

- a) The lifetime right is equal to any of the 15 property owner “A” rights;
- b) The lifetime right shall be used subject to all validly enacted and uniformly enforced rules and regulations of the Ski Club;

- g) None of the foregoing provisions shall apply with respect to any “A” right Huntzinger retains while an owner of property abutting to the lake.

Appellant’s App. Vol. II p. 67. The Settlement described enforcement in section VIII: “[t]his agreement contemplates the completion of a more detailed document to become the Agreed Judgment, but this agreement is an enforceable settlement agreement.” Appellant’s App. Vol. II p. 68. On August

26, 1997, Mega Lakes conveyed the lake to the Ski Club, as required by the Settlement. In a June 8, 2004 order, the court overseeing the Settlement noted that “the more detailed document to become the Agreed Judgement,” as indicated in the Settlement, was never filed with the court. Appellant’s App. Vol. II. pp. 198–99.

[4] On December 27, 2010, Burney recorded the amended and restated covenants, conditions, and restrictions for the Ski Club (“the Covenants”). In regard to clarifying lake use rights, the Covenants states:

[o]wnership of one or more platted waterfront lot(s) at [C]hampion Lake is a requisite for ownership of Lake use rights.

There are two classes of Lake use rights.

The number of class A rights is limited to fifteen (15). Class A rights have unrestricted use of the Lake at all times. Class A rights include the first right of use of any water-ski courses on the Lake.

An additional lifetime class A right, personal and inalienable to Mr. John Huntzinger also exists. Mr. Huntzinger’s lifetime A right is equal to any of [the] 15 property owner A rights.

Appellant’s App. Vol. II p. 79. The Covenants also state “[a]ll classes of rights allow the non-exclusive use, enjoyment and ingress and egress to the Common Area and common boat docks and launch ramp.”

Appellant’s App. Vol. II p. 80.

[5] On February 19, 2018, Huntzinger sent a letter to the Ski Club requesting permission to install a dock on the lake and Common Area of the Ski Club pursuant to Huntzinger's Class A lake use rights. Burney responded, stating,

[Huntzinger] has no standing, other than his personal right to water-ski which means he can hang onto a rope attached to a boat in motion and glide on skis on the water and nothing else.

Therefore, I am directing Mr. Huntzinger to enter Champion Lake Ski Club Inc. Real Estate ONLY to water-ski and NOT for any other purpose[.]

Appellant's App. Vol. II p. 99. Huntzinger and Burney continued correspondence between June 2018 and January 2019 but failed to reach a resolution. The Ski Club held a special meeting at which it rejected Huntzinger's request to build a dock in the Common Area of the lake.

[6] On August 26, 2019, Huntzinger brought his complaint: (I) alleging breach of the Settlement and its incorporation by reference of the Covenants, (II) alleging intentional interference with a contractual relationship by Burney relating to Burney's interference with the contract between Huntzinger and the Ski Club, (III) seeking injunctive relief against the Ski Club for its refusal of Huntzinger's rights to construct a boat dock as outlined in the Settlement and Covenants, and (IV) seeking injunctive relief against Burney for acting on behalf of the Ski Club without being a lot owner in the Development. On December 20, 2019, the Ski Club and Burney moved for summary judgment as to all counts. Huntzinger filed his response and motion for partial summary judgment as to counts I and

III of his complaint. On August 17, 2020, the trial court entered summary judgment in favor of the Ski Club and Burney on all counts.

Discussion and Decision

[7] Huntzinger contends on appeal that the trial court erred in granting summary judgment with respect to his claim that he had a contractual right to build a dock in the Common Area and that Burney interfered with that right. “In an appeal involving summary judgment, the appealing party bears the burden of persuasion, and we assess the trial court’s decision to ensure that the parties were not improperly denied their day in court.” *Shambaugh & Son v. Carlisle*, 763 N.E.2d 459, 460 (Ind. 2002). “When reviewing a grant of summary judgment, our standard is the same as that of the trial court.” *Knight v. Ind. Ins. Co.*, 871 N.E.2d 357, 360 (Ind. Ct. App. 2007) (citations omitted). “A party seeking summary judgment must show ‘that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.’” *Shambaugh & Son, Inc.*, 763 N.E.2d at 461 (citing Ind. Trial R. 56(C)). Huntzinger appeals, arguing that the trial court erred in granting summary judgment in favor of the Ski Club and Burney and denying his motion for partial summary judgment.

I. Breach of Contract Claim Against the Ski Club

[8] “An instrument creating an easement must be construed according to the intention of the parties as ascertained from all facts and circumstances, and

from examination of all its material parts. *Abbs v. Town of Syracuse*, 686 N.E.2d 928, 930 (Ind. Ct. App. 1997) (quotations and citations omitted). Indeed, when faced with an ambiguity, the focal point of inquiry is the intent of the parties who created the easement. *Id.*

Generally an easement for ingress and egress confers only the right to pass over the land and not to control the real estate or install improvements. *Hagemeier v. Indiana & Michigan Electric Company* (1983), Ind. App., 457 N.E.2d 590, 594. However, this general proposition fails, and dominant owners of lakeside easements may gain the right to erect and maintain piers, moor boats and the like, where express language in the instrument creating the easement so provides. *Klotz v. Horn* (1990), Ind., 558 N.E.2d 1096, 1097–98, referencing *Maddox v. Katzman* (1982), Iowa App., 332 N.W.2d 347 (lot owners in platted subdivision given the express right to construct private docks); *Strevell v. Mink* (1958), 176 N.Y.S.2d 901, 6 A.D.2d 350, *aff'd* (1959), 6 N.Y.2d 850, 160 N.E.2d 89, 188 N.Y.S.2d 557 (deed expressly provided for “a right of way ... 10 feet wide and also sufficient land on the shore of said lake for a boat house, and dock”). If the instrument is silent concerning the specific rights of the easement holder, then the trial court may allow extrinsic or parol evidence to ascertain the intent of the parties who created the easement. *Klotz*, 558 N.E.2d at 1098.

Metcalf v. Houk, 644 N.E.2d 597, 604 (Ind Ct. App. 1994). Huntzinger alleges that the lifetime ski right he was awarded in the Settlement allows him to construct a private dock in the Common Area. We disagree.

[9] In the Settlement, Huntzinger’s lifetime right is described as a “lifetime ski right,” that is equal to the rights of any Class A landowner; however, that right was specified to be in addition to and separate from the rights he held as a

landowner. Appellant's App. Vol. II p. 67. In the Covenants, those rights are further elaborated upon:

The number of class A rights is limited to fifteen (15). Class A rights have unrestricted use of the Lake at all times. Class A rights include the first right of use of any water-ski courses on the Lake.

An additional lifetime class A right, personal and inalienable to Mr. John Huntzinger also exists. Mr. Huntzinger's lifetime A right is equal to any of [the] 15 property owner A rights.

Appellant's App. Vol. II p. 79. The Covenants also state that "[a]ll classes of rights allow the non-exclusive use, enjoyment and ingress and egress to the Common Area and common boat docks and launch ramp." Appellant's App. Vol. II p. 80.

[10] Because Huntzinger no longer owns property along Champion's Lake, his rights are limited to those described in the Settlement and Covenants, and neither document mentions the right to construct a dock within or make any other improvements to the Common Area. Pursuant to the Settlement and Covenants, Huntzinger has the right to water ski on the lake and may undertake all necessary steps to enjoy that right, including the utilization of a boat, dock, and boat ramp required for water skiing. Huntzinger argues that "unrestricted use" should be read broadly enough to include the right to construct a dock in the Common Area of the lake, but the documents read together indicate that his right to use the lake is limited to water skiing. Simply put, waterskiing does not include dock building.

[11] Huntzinger also argues that his lifetime right amounts to a dominant easement granting him unrestricted use of the lake. Huntzinger cites to *Klotz*, a case in which the Indiana Supreme Court concluded that a dominant easement for access to Eagle Lake could include the right to construct a pier if it were necessary to exercise the easement's purpose. Unlike *Klotz*, Huntzinger has full access to a Common Area equipped with three pier-docks and a boat ramp. In *Klotz*, the dominant easement holders had access to only a small portion of lakefront with no boat dock or ramp; their dispute over the construction of a dock is altogether different than this case. Huntzinger has the same ski rights, no more and no less, than the property owners on the lake. The trial court did not err in entering summary judgment in favor of the Ski Club on Huntzinger's breach of contract claim.

II. Intentional Interference of Contractual Relations Claim Against Burney

[12] Huntzinger also contends that the trial court erred in entering summary judgment in favor of Burney on his intentional interference of contractual relations claim.

To state a claim for interference with contractual relations, the plaintiff must allege: 1) the existence of a valid and enforceable contract; 2) the defendant's knowledge of the existence of the contract; 3) the defendant's intentional inducement of breach of the contract; 4) the absence of justification and 5) damages resulting from the defendant's wrongful inducement of the breach.

Zemco Mfg., Inc. v. Navistar Int'l Transp. Corp., 759 N.E.2d 239, 251 (Ind. Ct. App. 2001) (citation omitted). Huntzinger argues that because Burney personally responded and denied Huntzinger's requests to build a dock in the Common Area, Burney interfered with Huntzinger's contractual right to build that dock. However, because we have determined that Huntzinger has no contractual right to build a dock in the Common Area, there was no breach. Consequently, Huntzinger's claim for intentional interference with contractual relations fails as a matter of law.

[13] The judgment of the trial court is affirmed.

Kirsch, J., and May, J., concur.