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2024 IL App (3d) 230380-U

Order filed June 27, 2024

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2024

NEIGHBORS OPPOSED TO ANNEXATION)	Appeal from the Circuit Court
OF PARCELS, an unincorporated association,)	of the 12th Judicial Circuit,
and WARREN DORRIS,)	Will County, Illinois,
))
Plaintiffs-Appellants,)	Appeal No. 3-23-0380
)	Circuit No. 18-CH-2085
v.))
)	Honorable
)	Roger D. Rickmon,
THE CITY OF JOLIET, a municipal)	Judge, Presiding.
corporation, and LOVE’S TRAVEL STOPS))
& COUNTRY STORES, INC., an Oklahoma))
corporation, and RICK SHUFFIELD,))
))
Defendants-Appellees.))

JUSTICE ALBRECHT delivered the judgment of the court.
Presiding Justice McDade and Justice Peterson concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court did not err in finding that no genuine issue of material fact existed and ruling in defendants’ favor on their motion for summary judgment.

¶ 2 This *quo warranto* proceeding was brought by plaintiffs, Neighbors Opposed to Annexation of Parcels (Neighbors) and Warren Dorris, against defendants, the City of Joliet (the

City); Love’s Travel Stops & Country Stores, Inc. (Love’s); and Rick Shuffield, following the annexation by the City of a group of unincorporated parcels owned by Love’s and Shuffield. The complaint sought a determination that the annexation was void due to a lack of contiguity to the municipality. After hearing arguments, the circuit court granted defendants’ motion for summary judgment. Plaintiffs now appeal the circuit court’s ruling, arguing that there were issues of material fact in the case and that defendants were not entitled to judgment as a matter of law. We affirm.

¶ 3

I. BACKGROUND

¶ 4

On December 28, 2018, plaintiffs filed a complaint for injunctive and other relief against defendants. The complaint challenged Joliet’s ordinances approving the annexation of three parcels of land owned by Love’s and Shuffield (collectively, the subject property). The basis of the complaint was that the subject property did not meet the statutory requirement of contiguity to the municipality. Plaintiffs later filed an amended complaint asserting a *quo warranto* claim, which is the subject of this appeal.

¶ 5

In 2015, Love’s and Shuffield, the Vice President of Real Estate and Development for Love’s, purchased three parcels located in unincorporated Will County. Specifically, Love’s purchased approximately 7.8 acres that was neither in the City nor contiguous to it. Soon thereafter, Shuffield purchased a 2-acre parcel known as 1311 New Lenox Road, which was contiguous to the parcel Love’s purchased and shared a common boundary with property that was part of incorporated Joliet. Love’s also purchased a 4.3-acre parcel that adjoined its 7.8 acre parcel.

¶ 6

Each of the three parcels was annexed by separate ordinance on October 2, 2018. At the same City Council meeting where these ordinances were passed, the City also voted to rezone

the parcels. 1311 New Lenox Road was rezoned to R-1 residential, while the other two parcels were zoned as B-3 business.

¶ 7 1311 New Lenox Road is the parcel that connects all parcels to the City boundary. It consists of two lots totaling approximately two acres. The property measures approximately 330 feet on the south side and 264.59 feet on the east side where it adjoins Love’s parcel. It extends to the center line of New Lenox Road and touches property owned by plaintiff Warren Dorris. Sometime in 1994, Dorris and his wife purchased their property and filed a petition to annex to the City. The Dorrises’ property shared a common boundary of 66 feet with the City. The point where 1311 New Lenox Road touches the Dorris property measures 19.5 feet, though Love’s maintains that when the Dorrises annexed their property, it included a small portion of 1311 New Lenox Road and because of an “overlap” the properties actually share a common boundary of approximately 33 feet.

¶ 8 Plaintiffs’ complaint, filed on December 28, 2018, originally challenged the zoning of the parcels. On April 24, 2019, plaintiffs filed an amended complaint, which added a *quo warranto* claim against the City. Love’s later filed a petition to intervene on the *quo warranto* claim, and the court granted the petition. The court then granted plaintiffs leave to file another amended complaint in order to comply with notice requirements.

¶ 9 On June 17, 2020, plaintiffs filed an amended complaint that did not replead the zoning count. Plaintiffs then amended their complaint again on October 7, 2020. This complaint included the *quo warranto* claim exclusively and alleged that the conditions of the subject property did not satisfy the statutory requirement of contiguity. Plaintiffs requested that the court invalidate the ordinances permitting the annexation.

¶ 10 On January 10, 2023, Love’s filed a motion for summary judgment. In its motion, Love’s argued primarily that it was entitled to judgment in its favor because there were no disputed facts and that contiguity existed as a matter of law. The City joined in the motion. The court permitted plaintiffs to file an amended complaint to rectify an omission in the complaint pertaining to the description of the subject property. The amended complaint still contained only one count for the *quo warranto* claim. On June 6, 2023, plaintiffs filed their response to the motion for summary judgment, arguing that genuine issues of fact existed, namely whether the subject property was contiguous to the City.

¶ 11 In their response, plaintiffs did not argue any other facts that may have been at issue other than the length of common boundary and whether that length created contiguity to the municipality. In reply, Love’s argued that the “fact” plaintiffs claimed was in dispute was not a fact at all, but a question of law, which supported its position that summary judgment was warranted.

¶ 12 Oral arguments were heard on June 29, 2023. During the hearing, plaintiffs primarily focused their argument on whether 19.5 feet of common boundary was sufficient for contiguity under the law. Plaintiffs also argued that there was a dispute of exactly how much of a common boundary existed because defendants originally asserted that the subject property shared a common boundary of 33 feet, as the land records show a small portion of the property overlapped with the Dorris property when it was annexed. Defendants argued that the evidence and maps support that there is indeed an annexed portion of 1311 New Lenox Road. Plaintiffs maintained that this was inaccurate and only 19.5 feet shared a common boundary with the Dorrises’ property.

¶ 13 On July 25, 2023, the court granted defendants’ motion for summary judgment. While acknowledging that there may be a dispute regarding the exact length of the common boundary, the court stated it would presume that the length was “only 20 feet.” It concluded that “[o]n the issue of contiguity, it’s clear, there is no question of fact, it’s clear under the existing law the contiguity exists between the City of Joliet and the proposed annexed property, so that’s determined in [defendants’] favor as a matter of law,” further noting that the annexation was “a natural expansion of the city’s boundaries.” In its written order the court found that there was contiguity for the purpose of annexing the property, that the physical touching of 19.5 feet was “substantial contiguity” that would sustain annexation, and that the annexation was a natural and gradual extension of the City’s municipal boundaries.

¶ 14 Plaintiffs timely appeal.

¶ 15 II. ANALYSIS

¶ 16 Plaintiffs make several arguments on appeal that may be summed up as follows: (1) the court failed to provide a basis for its decision regarding substantial contiguity; (2) the court erred in finding that there were no genuine issues of material facts; and (3) the court erred in finding contiguity existed as a matter of law. We address each of these arguments in turn.

¶ 17 A. The Court’s Basis for its Decision

¶ 18 First, plaintiffs argue that the court did not provide any basis for its reasoning in finding substantial contiguity because the court’s written order provides no explanation or reasoning to support its decision. They make no argument regarding what findings the court should have made in its order.

¶ 19 On review, we may sustain a ruling of summary judgment on any grounds called for by the record, even if the circuit court did not base its decision on the same grounds. *Makowski v.*

City of Naperville, 249 Ill. App. 3d 110, 115 (1993). Thus, we will not reverse simply because the circuit court did not provide findings of fact or law when ruling on the motion for summary judgment. See *id.* While omitting such information is not ideal, “it is the ruling which is being appealed, not the reasons for the ruling. *** [T]he trial court’s reasons for its ruling are not absolutely necessary for effective appellate review.” *Id.* Thus, plaintiffs’ argument here is without merit, as we must simply determine whether the circuit court was correct in its determination, not in its reasoning. See *id.*

¶ 20

B. Issues of Material Fact

¶ 21

Plaintiffs next argue that the court erred in finding that no genuine issue of material fact existed. Specifically, plaintiffs contend that the fact in dispute is whether a common boundary of 19.5 feet creates “substantial contiguity” such that it satisfies the contiguity requirement in the statute. See 65 ILCS 5/7-1-1 (West 2018). They admit that the only issue to be determined in this case is whether contiguity exists under the facts of the case and argue that 19.5 feet of a common boundary is insufficient for this purpose. Defendants respond that plaintiffs’ purported issue of fact, whether the property was contiguous, is not a factual issue but a legal one.

¶ 22

This comes before us on a grant of summary judgment in favor of Love’s and the City. “Summary judgment is proper if, when viewed in the light most favorable to the nonmoving party, the pleadings, depositions, and affidavits on file demonstrate that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” *Allegis Realty Investors v. Novak*, 223 Ill. 2d 318, 330 (2006); 735 ILCS 5/2-1005(c) (West 2022). The purpose of summary judgment is not to try any questions of fact but to determine whether an issue of fact exists. *Adams v. Northern Illinois Gas Co.*, 211 Ill. 2d 32, 42-43 (2004). A triable issue of fact exists if a dispute concerning material facts is present, or if the facts are

undisputed but a reasonable person might draw different inferences from them. *Messerly v. Boehmke*, 2014 IL App (4th) 130397, ¶ 32. We review the grant of summary judgment *de novo*. *Allegis Realty Investors*, 223 Ill. 2d at 330.

¶ 23 In this case, the record contains undisputed evidence that the subject property touched the Dorrises' property and that the common boundary connecting it to the Dorrises' property was at least 19.5 feet. Plaintiffs do not challenge any other element of the annexation or its procedure besides the lack of contiguity requirement.

¶ 24 Plaintiffs first contend that there is an issue of fact regarding whether the common boundary was 19.5 feet or 33 feet. We find that this is not an issue of *material* fact, however, because this particular fact does not change the outcome of the court's order. The court made its finding based on 19.5 feet of common boundary, not on the 33 feet defendants assert is the actual length of common boundary. Because the court based its ruling on the shorter boundary length, stating that its analysis would be the same under either circumstance, the dispute over the length of the common boundary is not an issue of material fact for the purposes of summary judgment, and summary judgment should not be denied based on this issue.

¶ 25 Plaintiffs mainly focus their argument on the position that the genuine issue of material fact is whether the common boundary in this case constitutes sufficient contiguity for a proper annexation. Defendants are correct, however, that this is a legal argument, not a factual one. The concept of contiguity and whether property is contiguous to a municipality to allow for annexation is a legal conclusion that can only be reached through a unique, case-by-case analysis. See *Western National Bank v. Village of Kildeer*, 19 Ill. 2d 342, 351 (1960). There is not one specific fact that, if present, indicates whether a property is contiguous to a municipality.

See *id.* Thus, we find that the circuit court did not err in finding that there were no factual disputes that prevented it from ruling on the motion for summary judgment.

¶ 26 C. Judgment as a Matter of Law

¶ 27 Having found that no genuine issue of material fact exists, we must now determine whether the court erred in finding that Love’s and the City were entitled to judgment as a matter of law.

¶ 28 Plaintiffs contend that the court’s decision that the 19.5 feet connection to the Dorris property was “substantial” enough to meet the contiguity requirement of the annexation statute was incorrect. See 65 ILCS 5/7-1-1 (West 2018). They argue that the statute requires that the touching of properties must be a “substantial common boundary or a common border of reasonable length or width.” *Village of Fox River Valley Gardens v. Lake County Forest Preserve District*, 224 Ill. App. 3d 919, 931 (1992); 65 ILCS 5/7-1-1 (West 2018). Plaintiffs also rely on *Cherry Valley Fire Protection District v. City of Rockford*, 120 Ill. App. 2d 275 (1970), to argue that any property with less than a 20-foot space of common boundary is insufficient to support annexation. While plaintiffs acknowledge that there is no set rule for how long a common boundary must be, they argue that 19.5 feet is simply not enough and therefore *de minimis*.

¶ 29 Defendants argue that the court did not err in ruling contiguity exists. They further assert that the purpose of annexation, to continue the natural and gradual extension of municipal borders, is satisfied here. Defendants also note that most cases finding that contiguity does not exist are based on subterfuge by use of strips or other techniques to circumvent the contiguity requirement. See *e.g., People ex rel. Ropac v. City of Edwardsville*, 345 Ill. App. 3d 414, 416 (2003). Thus, they argue, case law supports a finding of contiguity.

¶ 30 Section 7-1-1 of the Illinois Municipal Code allows for the annexation of a parcel to a connecting municipality. Specifically, section 7-1-1 provides:

“Any territory that is not within the corporate limits of any municipality but is contiguous to a municipality may be annexed to the municipality as provided in this Article. For the purposes of this Article any territory to be annexed to a municipality shall be considered to be contiguous to the municipality notwithstanding that the territory is separated from the municipality by a lake, river, or other waterway or the territory is separated from the municipality by a strip parcel, railroad or public utility right-of-way, or former railroad right-of-way that has been converted to a recreational trail, but upon annexation the area included within that strip parcel, right-of-way, or former right-of-way shall not be considered to be annexed to the municipality. For purposes of this Section, ‘strip parcel’ means a separation no wider than 30 feet between the territory to be annexed and the municipal boundary.” 65 ILCS 5/7-1-1 (West 2018).

¶ 31 The Act does not define “contiguous.” See *id.*; *Henry County Board v. Village of Orion*, 278 Ill. App. 3d 1058, 1067 (1996). However, we acknowledge that “[c]ontiguity has long been defined in annexation cases as tracts of land that touch or adjoin one another in a reasonably substantial physical sense.” *Orion*, 278 Ill. App. 3d at 1067. Courts have thus adopted a liberal attitude on this issue. See *Kildeer*, 19 Ill. 2d at 351; *In re Petition for Annexation of Certain Property to Village of Plainfield, Illinois*, 267 Ill. App. 3d 313, 318-21 (1994).

¶ 32 While there is no comprehensive or bright line rule suitable for the application of the contiguity requirement in all cases, those that reject annexation petitions have generally fallen into one of two categories. The first category involves impermissible “cornering.” See *Kildeer*,

19 Ill. 2d at 351. Cornering consists of one piece of land cornered by another so minimally that a “person could not pass from one strip to the other without passing over land not within the [municipality].” *Id.* The second category involves those cases wherein the shape of the territory or its relationship to other property would defeat the purpose of the contiguity requirement, such as allowing for the efficient delivery of sewer, fire, police, and other services. See *Chatham*, 245 Ill. App. 3d at 791; *Belleville*, 84 Ill. 2d at 12.

¶ 33 True contiguity requires that the property sought to be annexed be adjacent and parallel to the existing municipal boundaries. *People ex rel. Adamowski v. Village of Streamwood*, 15 Ill. 2d 595, 601 (1959); *People ex rel. Cherry Valley Fire Protection District v. City of Rockford*, 120 Ill. App. 2d 275, 285 (1970). Moreover, “[t]he purpose of the contiguity requirement is to permit the natural and gradual extension of municipal boundaries to areas which ‘adjoin one another in a reasonably substantial physical sense.’ ” *People ex rel. County of St. Clair v. City of Belleville*, 84 Ill. 2d 1, 12 (1981) (quoting *Village of Kildeer*, 19 Ill. 2d at 352). “[P]oint-to-point touching or cornering is generally not sufficient to satisfy the requirement of contiguity,” *LaSalle Bank National Association v. Village of Bull Valley*, 355 Ill. App. 3d 629, 637 (2005), as this type of connection is considered “subterfuge to reach outlying areas.” *People ex rel. Village of Long Grove v. Village of Buffalo Grove*, 160 Ill. App. 3d 455, 462 (1987).

¶ 34 Turning to the facts and circumstance before us, we find that the circuit court did not err in finding that defendants were entitled to judgment as a matter of law because the subject property is sufficiently contiguous to satisfy the requirements of the Code. Specifically, we find that the court’s ruling that contiguity existed and furthered the purpose of it—to promote the natural and gradual expansion of the City—was not error.

¶ 35 First, the subject property does not constitute strip, corridor, or cornering annexation that is condemned in the precedent before us. See *Wild v. People*, 227 Ill. 556 (1907) (neither two tracts which merely corner on each other, nor two tracts with a strip 50 feet wide included merely for the purpose of connecting them, constitute “contiguous” territory). Further, there is no rule that indicates 19.5 feet will never be sufficient to satisfy the contiguity requirement. None of the characteristics indicating non-contiguity are present here.

¶ 36 Additionally, the circuit court found, and we agree, that the annexation of the subject property would be a natural and gradual expansion of the City. Based on the evidence before the court, police and other first responders can easily respond to the location if necessary. Further, the subject property is directly connected to the City and would be able to connect to sewer, water, and other utilities. While plaintiffs argue that utilities cannot reach the subject property without crossing into unincorporated property, this does not in and of itself negate contiguity. Moreover, as defendants note, the connection of the subject property to these utilities will open the surrounding area of incorporated land to receive services that had not yet been available to them. This includes providing the Dorrises’ property access to these services when it currently does not have access to them. The purpose of requiring contiguity prior to annexation is to allow for the natural and gradual expansion of municipality, rather than forced expansion. See *City of Belleville*, 84 Ill. 2d at 12. This purpose is clearly met here, and the circuit court did not err in finding that defendants were entitled to judgment as a matter of law.

¶ 37 This is not to say that a common boundary of 19.5 feet will always constitute sufficient contiguity. This decision does not create a rule regarding minimum length creating contiguity of properties. A court must always examine the circumstances and facts of each case before making

an individualized decision for any challenged property. See *Kildeer*, 19 Ill. 2d at 351. We only find that the circuit court's determination based on the facts of this particular case is not error.

¶ 38

III. CONCLUSION

¶ 39

The judgment of the circuit court of Will County is affirmed.

¶ 40

Affirmed.