

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

PATRICK T. WOODLING,) ED102584
)
Appellant,) Appeal from the Circuit Court
) of St. Louis County
v.) 14SL-CC00951
)
GREGORY POLK and ADRIENNE) Honorable Barbara W. Wallace
POLK,)
)
Respondents.) Filed: October 27, 2015

Patrick Woodling (Woodling) appeals the trial court’s summary judgment in favor of Gregory and Adrienne Polk (collectively, the Polks). Woodling sued for declaratory judgment and permanent injunction regarding a strip of land on the Polks’ property over which Woodling claimed he had an easement. Woodling also appeals the trial court’s dismissal of his trespass claim.

AFFIRMED.

Division Two Holds: Because a landowner cannot create an easement in his or her own land, the easement that the developer purported to create during the time he owned both the Polks’ current property and Woodling’s current property was never effective. While a developer may create easements in property he or she intends to subdivide and sell by way of subdivision plat or conveyance deed, the developer did not do so here. Thus, the trial court did not err in granting summary judgment in favor of the Polks. Additionally, because Woodling had no property rights, his trespass claim fails, and the trial court did not err in dismissing it.

Opinion by: Gary M. Gaertner, Jr., J.
Philip M. Hess, P.J., and Angela T. Quigless, J.,

Attorney for Appellant: Henry P. Elster
Attorneys for Respondent: Peter H. Love, Martin J. Buckley, Adrian P. Sulser

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