

NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

NO. 4-10-0685

Order Filed 4/26/11

IN THE APPELLATE COURT
OF ILLINOIS

FOURTH DISTRICT

PAUL E. IRWIN,)	Appeal from
Plaintiff-Appellant,)	Circuit Court of
v.)	Sangamon County
AUBURN TOWNSHIP, a Governmental)	No. 09CH1019
Entity in Sangamon County, State of)	
Illinois; and IRWIN'S PARK)	
ASSOCIATION, an Illinois Not-for-)	Honorable
Profit Corporation,)	Patrick J. Londrigan,
Defendants-Appellees.)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgement of the court.
Justices Turner and Appleton concurred in the judgment.

ORDER

Held: The appellate court held that paragraph 38 of the Township Law (Ill. Rev. Stat. 1991, ch. 139, par. 38) authorized townships to acquire, by gift, land outside its township limits.

In December 1991, plaintiff, Paul E. Irwin, deeded, as a gift, land located in Chatham Township to defendant, Auburn Township. In March 2008, Auburn sold that land to its codefendant, Irwin's Park Association, an Illinois not-for-profit corporation (hereinafter the park association).

In April 2010, Irwin filed an amended complaint, arguing, among other things, that his December 1991 gift to Auburn was void under paragraph 38(f), of the Township Law of 1874 (Township Law) (Ill. Rev. Stat. 1991, ch. 139, par. 38(f)) because the deeded land was located outside Auburn's township

limits. Defendants responded by filing a motion to dismiss pursuant to sections 2-615 and 2-619 of the Code of Civil Procedure (735 ILCS 5/2-615, 2-619 (West 2008)). Following an August 2010 hearing, the trial court granted defendants' motion to dismiss, citing both sections 2-615 and 2-619 of the Civil Code.

Irwin appeals, arguing that the trial court erred by granting defendants' motion to dismiss. We disagree.

I. BACKGROUND

In December 1991, Irwin deeded, as a gift, land located in Chatham Township to Auburn.

In November 2007, Irwin's daughter contacted an Auburn Township trustee by letter, asking Auburn to return the land to Irwin immediately. The Irwin family believed that because the land was located in Chatham, Irwin's gift was void and should be returned to the Irwin. The Irwin family's attempts were unsuccessful.

In March 2008, Auburn sold that land to the park association for \$100.

In November 2009, Irwin filed a complaint in chancery for rescission, arguing that Auburn's March 2008 transfer of the land to the park association was void because Irwin's December 1991 gift of that land to Auburn was void pursuant to paragraph 38(f) of the Township Law (Ill. Rev. Stat. 1991, ch. 139, par. 38(f)), which states, in pertinent part, as follows:

"A town may acquire (singly or jointly with a municipality or municipalities) land or any interest in land located *within its township limits*. The town may acquire the land or interest by gift, purchase, or otherwise, but not by condemnation." (Emphasis added.)

In April 2010, Irwin filed an amended complaint, again arguing, among other things, that his December 1991 gift to Auburn was void under paragraph 38(f) of the Township Law (Ill. Rev. Stat. 1991, ch. 139, par. 38(f)) because that land was located outside Auburn's township limits. Defendants responded by filing a motion to dismiss pursuant to sections 2-615 and 2-619 of the Civil Code (735 ILCS 5/2-615, 2-619 (West 2008)), asserting that (1) paragraph 38(f) of the Township Law did not restrict such a gift, (2) Irwin lacked privity with the park association, (3) *laches* applied, and (4) the statute of limitations had expired. As part of their filings, defendants appended an affidavit from the Auburn Township supervisor, in which the supervisor explained that Auburn had spent more than \$69,000 between December 1991 and March 2008 to maintain the land at issue.

Following an August 2010 hearing, the trial court granted defendants' motion to dismiss, citing both sections 2-615

and 2-619 of the Civil Code without articulating its findings.

This appeal followed.

II. ANALYSIS

Irwin appeals, arguing that the trial court erred by granting defendants' motion to dismiss. Specifically, Irwin contends that the December 1991 gift to Auburn failed because Auburn lacked the authority to acquire land outside of its township limits under paragraph 38(f) of the Township Law (Ill. Rev. Stat. 1991, ch. 139, par. 38(f)). We disagree.

A. A Section 2-615 Motion To Dismiss and the Standard of Review

A motion to dismiss pursuant to section 2-615 of the Civil Code (735 ILCS 5/2-615 (West 2008)) "challenges the legal sufficiency of the complaint on the basis of defects appearing on its face." *Pickel v. Springfield Stallions, Inc.*, 398 Ill. App. 3d 1063, 1066, 926 N.E.2d 877, 881 (2010). When reviewing the legal sufficiency of a claim under section 2-615, courts must take as true all well-pleaded facts in the complaint and determine whether the allegations, construed in the light most favorable to the plaintiff, are sufficient to establish a cause of action upon which relief can be granted. *King v. First Capital Financial Services Corp.*, 215 Ill. 2d 1, 11-12, 828 N.E.2d 1155, 1161 (2005). We review *de novo* (1) a trial court's ruling pursuant to section 2-615 of the Civil Code (*Poruba v. Poruba*, 396 Ill. App. 3d 214, 215, 919 N.E.2d 1066, 1067 (2009)) and (2)

cases involving issues of statutory interpretation (*Reppert v. Southern Illinois University*, 375 Ill. App. 3d 502, 504, 874 N.E.2d 905, 907 (2007)).

B. Rules of Statutory Interpretation

"When interpreting a statute, our duty is to ascertain and give effect to the intent of the legislature." *Board of Trustees of The Teachers' Retirement System of Illinois v. West*, 395 Ill. App. 3d 1028, 1032, 916 N.E.2d 648, 652 (2009). That intent is best derived from the statutory language, which, if unambiguous, must be enforced as written. *Board of Trustees of The Teachers' Retirement System of Illinois*, 395 Ill. App. 3d at 1032, 916 N.E.2d at 652. "Courts must not construe words and phrases in isolation and, instead, should construe them in light of other relevant portions of the statute so that--if possible--no term is rendered superfluous or meaningless." *Board of Trustees of The Teachers' Retirement System of Illinois*, 395 Ill. App. 3d at 1035, 916 N.E.2d at 654.

C. The Pertinent Portions of the Statute at Issue

Paragraph 38, of the Township Law (Ill. Rev. Stat. 1991, ch. 139, par. 38) outlines, in pertinent part, the corporate powers of a township.

"(a) Every town has the corporate capacity to exercise the powers granted to it, or necessarily implied, and no others. Every

town has the powers specified in this
[s]ection.

(c) A town may acquire (by purchase, gift, or legacy) and hold property, both real and personal, for the use of its inhabitants and may sell and convey that property. ***

* * *

(f) A town may acquire (singly or jointly with a municipality or municipalities) land or any interest in land located within its township limits. ***." Ill. Rev. Stat. 1991, ch. 139, pars. 38(a), (c), (f).

D. The Plain Language of Paragraph 38
of the Township Law

The plain language of paragraph 38(c) of the Township Law grants townships such as Auburn the authority to acquire, by gift, real property for the use of its inhabitants. Ill. Rev. Stat. 1991, ch. 139, par. 38(c). Here, Irwin, by gift, deeded the land at issue to Auburn. Paragraph 38(c) of the Township Law fully authorized that transaction. Contrary to Irwin's assertions, reading subsection (f) together with subsection (c) does not make the statute ambiguous. Instead, subsection (f) merely further refines the townships' authority to acquire land--namely, it authorizes townships to acquire "interests in land located

within its township limits." Ill. Rev. Stat. 1991, ch. 139, par. 38(f).

Because we reject Irwin's contention that Auburn lacked the authority to acquire land outside of its township limits under paragraph 38(f) of the Township Law, we conclude that the trial court did not err by granting defendants' motion to dismiss pursuant to section 2-615 of the Civil Code.

In closing, we note that Irwin included several other arguments in his brief that were contingent upon this court concluding that Auburn lacked the statutory authority to acquire the land at issue. Because we have rejected Irwin's contentions in that regard, we need not address his other arguments.

III. CONCLUSION

For the reasons stated, we affirm the trial court's judgment.

Affirmed.