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2013 IL App (3d) 120454-U

Order filed April 15, 2013

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2013

KOKO TEYI,)	Appeal from the Circuit Court
)	of the 14th Judicial Circuit,
Plaintiff-Appellant,)	Rock Island County, Illinois,
)	
v.)	
)	Appeal No. 3-12-0454
FOX POINT APARTMENTS, EDWARD)	Circuit No. 10-L-55
ROSE BUILDING COMPANY, LLC, and)	
UNKNOWN SNOW REMOVAL)	
COMPANY,)	Honorable
)	Lori Lefstein,
Defendants-Appellees,)	Judge, Presiding.

JUSTICE LYTTON delivered the judgment of the court.
Presiding Justice Wright and Justice Schmidt concurred in the judgment.

ORDER

- ¶ 1 *Held:* Where plaintiff alleged that she slipped and fell on a landing as she exited an apartment building, the trial court properly found that the landing was a direct extension of the sidewalk under the Snow and Ice Removal Act (745 ILCS 75/1 (West 2010)).
- ¶ 2 Plaintiff, Koko Teyi, filed an action against defendants, Fox Point Apartments and Edward Rose Building Company and others, for injures she allegedly sustained when she

slipped and fell on ice outside a Fox Point Apartments building. Defendants moved for summary judgment, claiming immunity under the Snow and Ice Removal Act (Act) (745 ILCS 75/1 *et seq.* (West 2010)). The trial court found that the Act applied and barred plaintiff's negligence claim. We affirm.

¶ 3 Around 11:30 a.m., on January 22, 2010, Teyi entered Fox Point Apartments to visit a friend who lived on the second floor. Approximately 10 or 15 minutes later, she left the apartment. As she descended the stairway, she slipped and fell on an accumulation of ice on the landing near the base of the stairs. She suffered a broken wrist and injuries to her hand and arm. Teyi filed suit against defendants, claiming that they owed her a duty to exercise reasonable care in maintaining the premises. In her complaint, Teyi alleged that defendants "negligently allowed an unnatural accumulation of ice to form in the walking area of the building" and that defendants negligently failed to remove the unnatural accumulation of ice.

¶ 4 In her discovery deposition, Teyi stated that she did not see ice on the sidewalk as she walked up the stairs to the apartment. She first noticed the icy patch when she fell. She placed an X on a photograph of the stairway, landing and sidewalk, indicating that she fell on the landing. When questioned as to the location of her fall, she stated that she fell "on the landing or below it."

¶ 5 Defendants moved for summary judgment, alleging that the landing upon which Teyi fell was part of the sidewalk within the meaning of the Act. Defendants claimed that they should be granted statutory immunity for any negligent conduct in removing the ice.

¶ 6 The trial court determined that the landing where Teyi fell was a "sidewalk abutting

the property" within the meaning of section 2 of the Act. The court concluded that under the statute defendants were not liable for any injury allegedly caused by the ice on the landing that may have resulted from defendants' negligence and granted defendants' summary judgment motion.

¶ 7

ANALYSIS

¶ 8

Teyi argues that the trial court erred in granting summary judgment in defendants' favor. She claims that the Act does not bar her negligence claim because the landing where she slipped and fell is not a "sidewalk" within the meaning of the Act.

¶ 9

Summary judgment is properly granted when the pleadings, depositions, and admissions on file, together with the affidavits, if any, show 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. 735 ILCS 5/2–1005(c) (West 2010). We review a grant of summary judgment *de novo*. *Millennium Park Joint Venture, LCC v. Houlihan*, 241 Ill. 2d 281 (2010)

¶ 10

Section 1 of the Act provides:

"It is declared to be the public policy of this State that owners and others residing in residential units be encouraged to clean the sidewalks abutting their residences of snow and ice. The General Assembly, therefore, determines that it is undesirable for any person to be found liable for damages due to his or her efforts in the removal of snow or ice from such sidewalks, except for acts which amount to clear wrongdoing, as described in Section 2 of this Act." 745 ILCS 75/1 (West 2010).

Acts of wrongdoing are defined in section 2:

"Any owner, lessor, occupant or other person in charge of any residential property *** who removes or attempts to remove snow or ice from sidewalks abutting the property shall not be liable for any personal injuries allegedly caused by the snowy or icy conditions of the sidewalk resulting from his or her acts or omissions unless the alleged misconduct was willful or wanton." 745 ILCS 75/2 (West 2010).

¶ 11 The issue on appeal requires us to apply the rules of statutory construction to the term "sidewalks" as used in both section 1 and 2 of the Act. The primary rule of statutory construction is to give effect to the legislature's intent, the best evidence of which is the plain and ordinary meaning of the language used in the statute itself. *Stroger v. Regional Transportation Authority*, 201 Ill. 2d 508 (2002). A "sidewalk" is defined as "a walk for foot passengers usu[ally] at the side of a street or roadway: a foot pavement." Webster's Third New International Dictionary 2113 (1976). Absent a restriction by the legislature that limits the term "sidewalk" to municipal sidewalks or walkways abutting a street, the word "sidewalk" has been construed to include paved areas leading to and from a residence. See *Kurczak v. Cornwell*, 359 Ill. App. 3d 1051 (2005); but see *Gallagher v. Union Square Condominium Homeowner's Ass'n*, 397 Ill. App. 3d 1037 (2010) (a driveway is not a "sidewalk" under the Act as it is not commonly understood to be a walkway for foot passengers).

¶ 12 Applying the rules of statutory construction, Illinois courts have concluded that the Act applies to concrete structures adjacent to a sidewalk. In *Yu v. Kobayashi*, 281 Ill. App. 3d 489 (1996), the plaintiff fell on a stoop. The stoop was part of a continuous walkway

between the plaintiff's front door and the parking lot of a private apartment complex. Like Teyi, the plaintiff argued that the area in which she fell was not a "sidewalk" as defined in the statute because it was within the confines of the apartment complex. The court held that even if a paved path is not a sidewalk in the sense of a paved area that is adjacent to a city street, "it is sufficiently akin to a traditional sidewalk that to classify it otherwise would be unreasonable." *Id.* at 493. Since the plaintiff fell on what the court determined to be a "sidewalk" as intended by the legislature, the Act barred her negligence cause of action. *Id.*

¶ 13 In this case, the apartment complex includes more than one story. For those who live above the ground floor, a stairway outside the second floor apartments leads downstairs to a landing that extends several feet and connects to the sidewalk. The landing is not covered or housed within the interior walls of the apartment complex. It is an exposed concrete surface adjacent to the sidewalk that forms a paved path for foot passengers to maneuver to the walkway. It is, in ordinary and reasonable terms, part of the sidewalk abutting Fox Point Apartments.

¶ 14 Because the landing is a "sidewalk" within the meaning of Act, defendants cannot be liable to Teyi. Thus, the trial court's grant of summary judgment was proper.

¶ 15 CONCLUSION

¶ 16 The judgment of the circuit court of Rock Island County is affirmed.

¶ 17 Affirmed.