2014 IL App (5th) 130407-U

NO. 5-13-0407

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

LARRY GAERTNER,	)	Appeal from the
	)	Circuit Court of
Plaintiff and Counterdefendant-Appellee,	)	Madison County.
	)	
v.	)	No. 11-CH-814
	)	
RUSSELL NOEL and ANITA NOEL,	)	Honorable
	)	Barbara L. Crowder,
Defendants and Counterplaintiffs-Appellants.	)	Judge, presiding.

JUSTICE SCHWARM delivered the judgment of the court.
Presiding Justice Welch and Justice Goldenhersh concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court's judgment finding that the plaintiff sufficiently established title to a strip of the defendants' property pursuant to adverse possession was not against the manifest weight of the evidence.

¶ 2 The plaintiff, Larry Gaertner, and the defendants, Russell and Anita Noel, are owners of adjoining parcels of land. The plaintiff filed a complaint to quiet title, asserting an adverse possession claim on a strip of the defendants' land located on the north boundary of the plaintiff's property. After a bench trial, the circuit court determined, *inter alia*, that the plaintiff had established title pursuant to the adverse possession doctrine. On appeal, the defendants argue that the circuit court erred in

awarding the plaintiff land outside of fencing and a well house, both of which the defendants concede were present for over 20 years. For the reasons that follow, we affirm the circuit court's judgment.

¶ 3 BACKGROUND

¶ 4 On August 31, 2011, the plaintiff filed his complaint to quiet title to a strip of land, 25 feet wide at its easterly end, 50 feet wide at its westerly end, and 650 feet long, lying north of his residence on Old Carpenter Road near Edwardsville, Illinois. The plaintiff alleged that when he assumed ownership of his property in 1982, he and the defendants had been orally advised that the contested strip of land was included as the plaintiff's property. The plaintiff alleged that he had since mowed and maintained the grass on the property, used the well house on the property for his personal use, used the well water on the property for his personal use, placed a concrete pad and garage partially on the property, erected two fences on the property, maintained the property boundaries, and kept the property free of liens and encumbrances. The plaintiff alleged that he had therefore adversely possessed the land for over 20 years and sought an order confirming title in his name.

¶ 5 After a bench trial beginning February 11, 2013, the circuit court determined that the plaintiff had established adverse possession of that portion of the defendants' land beginning three feet north of the plaintiff's northwest fence line, extending in an easterly direction to connect with Old Carpenter Road, and included in its order the legal description of the land, which estimated the land at .444 acres. The circuit court thereby granted the plaintiff a strip of land that included, within its northwest boundary, the

plaintiff's fence, and three feet north of the fence and, on the northeast boundary, a grassy area encompassing a portion of the plaintiff's garage frame and concrete, portable building, and well house.

¶ 6 On appeal, the defendants do not dispute that part of the circuit court's order finding that the plaintiff was entitled to the land enclosed by the plaintiff's northwest fencing, along with the land encompassing the footprint of the plaintiff's northeast well house, both of which encroached over the property line for over 20 years. The defendants argue that the plaintiff failed to satisfy the elements of adverse possession with regard to the northwest three-foot strip of land outside the fenced enclosure and the unfenced portion of land east of the fence, outside the footprint of the well house. We will therefore limit our facts and analysis to these areas of contention.

¶ 7 Accordingly, the relevant evidence at trial revealed that Harold Hamann, Roger Cluster, and Robert Betts, Jr., jointly owned and farmed land on Old Carpenter Road near Edwardsville, Illinois, which included the land strip in dispute. On December 6, 1982, they entered into a contract for deed to sell part of that land to the plaintiff, and the plaintiff moved onto the five-acre tract of land. On February 4, 1988, they executed a warranty deed to the plaintiff pursuant to the contract. On April 20, 1989, the defendants purchased from Hamann and began farming land to the north of the plaintiff. The defendants' property is a farm field.

¶ 8 The plaintiff testified that before he purchased the property, Hamann had referred to a post in the northwest corner of the property, stating that it indicated the start of his northern property line, which proceeded east to encompass 20 feet north of the well

house and connect to Old Carpenter Road. Hamann corroborated the plaintiff's account that he had told the plaintiff that his property line was about 20 feet north of the well house, which lined up with the northwest fence post. Hamann testified that he thereafter observed that the plaintiff mowed 20 feet north of the well house and continued a path to the northwest end of the property, including the outside of the fence. Hamann testified that when he farmed the property, from 1982 until 1989, he never disputed the plaintiff's mow line.

¶ 9 Dennis Collman, a licensed land surveyor, testified that, pursuant to the defendants' request, he completed a survey of the land at issue on January 24, 2011. Collman testified that the plaintiff's fence, concrete, part of a garage, and well house were encroaching onto the defendants' property. Collman testified that he had returned to the property in September of 2012 and had noted that a portable building, which he had not listed in the survey because of its portability, had a concrete apron in front of it. Collman testified that, pursuant to the plaintiff's request, he prepared an exhibit and proposed legal description wherein he identified a proposed deed line located approximately three feet north of the plaintiff's existing fence line and three feet north of the plaintiff's portable building, intersecting the westerly right-of-way line of Old Carpenter Road.

¶ 10 The plaintiff testified that he had requested that Collman prepare a legal description of the proposed property line that included the area that he had used, occupied, and maintained since 1982. The plaintiff testified that in 1983, when he first built the fence beginning on the northwest corner of what he believed to be his property and ending on the west side of his garage, he had tied into the aforementioned metal post

previously located on the northwest corner. The plaintiff testified that he replaced the fence in 1990 and 2000 and that each time he maintained the original location of the post and fence. The plaintiff testified that from 1983, until he was notified in 2010 that his deed line was not near the fence, he mowed three feet to the north, and outside, of the northwest fence line and continued east in a mow line located 20 feet north of the well house and reaching Old Carpenter Road.

¶ 11 The plaintiff testified that he seeded and fertilized the disputed area and used the area between the well house and Old Carpenter Road to train dogs. The plaintiff testified that he planted bushes on the side of the well house and planted a garden in the disputed area. The plaintiff testified that he installed the portable shed on the property in June 2008, and he built a garage on the disputed area in February 2009. The plaintiff testified that throughout the years, he cleaned and mowed near Old Carpenter Road.

¶ 12 The plaintiff testified that he and the defendants did not dispute the property line until the survey was completed. The plaintiff testified that the defendants did not notify him that he was mowing, training dogs, installing the portable shed, or installing the garage on their property. The plaintiff testified that the defendants planted their crops, beginning in 1989, north of the mow line that he had always used.

¶ 13 The plaintiff's wife, Marla Gaertner, testified that she had moved onto the property in late 1988 and had since helped the plaintiff maintain the property. Marla testified that each year she mowed a line 20 feet north of the well house, and when approaching the west fence line, she mowed three feet north of the fence.

¶ 14 Marla testified that in 1990, she planted a garden in the disputed area and had

continued to do so until the garage concrete was installed in 2009. Marla testified that she also removed trash and cut weeds to maintain the disputed area. Marla testified that she and the plaintiff used the area in front of the well house to train dogs. Marla reiterated that the plaintiff had installed the portable building in June 2008 and the garage, with the adjoining concrete, in 2009. Marla testified that no one objected to the portable building or the garage until the survey was completed.

¶ 15 Timothy Gaertner, the plaintiff's son, testified that although he did not live at the house on Old Carpenter Road, he spent time on the property. Timothy testified that from the spring of 1983 until the current suit was filed, the plaintiff mowed approximately 20 feet north of the well house and approximately 3 feet north of the fence. Timothy testified that he measured the mow line from the well house with a tape measure. Timothy testified that he had observed the plaintiff and Marla mowing on the north side of the well house and had observed the plaintiff training dogs in front of the well house, into the side, grassy area. Timothy testified that he had observed the plaintiff planting seed to the north of the well house and noted that the plaintiff also had planted a garden in the area. Timothy testified that the plaintiff installed the portable building in May or June 2008. Timothy testified that the pole barn was installed in June 2009. Timothy testified that the barn included 20 feet of concrete on the front and 15 feet of concrete on the side. Timothy testified that he had not observed the defendants enter the disputed area or object to the plaintiff's use of the area.

¶ 16 Various residents of Old Carpenter Road testified on the plaintiff's behalf. Vicki Hamlen testified that she had lived on Old Carpenter Road, to the north of the defendant's

property for 17 years. Vicki testified that between 1995 and 2011, she would drive by the plaintiff's property once or twice a week. Vicki testified that she had witnessed the plaintiff and his wife mowing the area of the well house and had witnessed the plaintiff's dogs in the area. Vicki testified that she had observed the plaintiff's mow line that proceeded west from Old Carpenter Road. Vicki estimated the mow line to be 10 to 15 feet north of the plaintiff's well house. Vicki testified that the mow line remained the same throughout the years that she lived in the area. Vicki testified that she had never seen the defendants in the disputed area.

¶ 17 Audrey Boeser, who lived on Old Carpenter Road, north of the plaintiff, testified that she had lived in her home for 50 years. Audrey testified that she observed the plaintiff mowing the property to the north of the well house. Audrey testified that the plaintiff had mowed 15 to 20 feet north of the well house since he had moved onto the property. Audrey testified that the defendants never complained to her that the plaintiff was on their property.

¶ 18 Jim Boeser, who lived on Old Carpenter Road to the northeast of the plaintiff's property across the road, testified that he moved from his parents' home on Old Carpenter Road in 1995, lived in Alton, and returned to Old Carpenter Road by building a home in 2005. Jim testified that once the plaintiff moved onto the property, the plaintiff mowed 15 to 20 feet north of the well house and 3 feet north of the fence line. Jim testified that this mow line stayed in the same location throughout the years. Jim testified that he at times mowed the plaintiff's property. Jim testified that when he mowed, he also followed the mow line from 15 to 20 feet north of the well house to 3 feet north of the fence line,

to the northwest end of the strip. Jim testified that he had never witnessed the defendants in the disputed property area and had not observed them planting crops in that 15-to-20-foot area north of the well house.

¶ 19 Scott Boeser testified that he lived on Old Carpenter Road from 1961, when he was born, until 1984. Scott testified that from 1984 until 2011, he passed the plaintiff's home about twice a week. Scott testified that once the plaintiff moved onto the property, the plaintiff mowed 15 to 20 feet north of the well house. Scott testified that the plaintiff continued to mow along this eastern/western line. Scott testified that he also observed the plaintiff mowing and training dogs in the disputed area. Scott testified that he at no time observed the defendants in the 15-to-20-foot area of grass north of the well house.

¶ 20 Kenneth Jones, who lived on Old Carpenter Road, testified that he had been familiar with the area since 1988 and had returned to live on Old Carpenter Road in 1998. Jones testified that as far as he could remember, the plaintiff maintained to the north edge of the well house towards the field and that he had observed the plaintiff and Marla mowing the area. Jones testified that the plaintiff mowed 20 to 25 feet north of the well house.

¶ 21 The defendant, Russell Noel, testified that he had believed the property line to be where the plaintiff's fence was located until Collman's survey was completed. Russell testified that the plaintiff had mowed closer to the well house on the north side of the property until three years prior to filing suit, when he began mowing 15 to 20 feet out. Russell also testified that he farmed within three to four feet of the plaintiff's fence.

¶ 22 Russell testified that he did not object when the plaintiff mowed ground to the

north of the deed line, including the area of the well house. Russell acknowledged that when the plaintiff's portable building was installed in June 2008, he did not object or notify the plaintiff that the building was on his property. Russell testified that he also did not object in 2009 when the plaintiff installed concrete and a garage on the property.

¶ 23 The defendant, Anita Noel, testified that she had lived on Old Carpenter Road since 1975. Anita testified that she and her husband farmed the property bordering the plaintiff's from 1989 until 1998, rented it for farming to Dennis Rapp, Greg Rapp, and Pat Weber from 1998 until 2008, and then farmed 14 acres along the north line of the plaintiff's property in the spring and summer of 2009. Anita testified that the defendants acquired Collman's survey of the property in 2010 and learned at that time of the plaintiff's encroachments on their property. Anita testified that throughout the years, she did not observe a mow line along the plaintiff's fence line, only weeds and brush, and she did not observe dog training or a garden plot in the eastern disputed area. Anita testified that the defendants' farming line was very close to the well house. Anita acknowledged, however, that she had observed the plaintiff mowing the defendants' property and had not objected. Anita testified that they also did not object when the plaintiff placed a portable building on the property in the summer of 2008.

¶ 24 Dennis Rapp testified that he had farmed the property to the north of the plaintiff's property line from 1998 until 2008. Rapp testified that he farmed within three to four feet of the plaintiff's fence. Rapp testified that he farmed within 10 or 12 feet of the well house. Rapp testified that the 10-to-12-foot area north of the well house was nothing but tall grass and tree sprouts. Rapp testified that in 2009, when the defendants returned to

farming hay in the area, he observed that the 10-to-12-foot strip had been mowed. Rapp testified that he did not observe dog training in the area.

¶ 25 In its order entered on April 25, 2013, the circuit court found that the plaintiff met the requirements to prove adverse possession of that portion of the defendants' land that extended three feet beyond the plaintiff's fence line, adopted Collman's proposed legal description that included this area, and noted that the area contained .444 acres more or less. Thereafter, the circuit court denied a motion to reconsider filed by the defendants, and the defendants timely appealed.

¶ 26 ANALYSIS

¶ 27 Again, we note that the parties do not dispute that the plaintiff had been occupying that part of the defendants' land south of the northwest fence for more than 20 years. The defendants therefore do not dispute the circuit court's order confirming title to land enclosed or delineated by the plaintiff's northwest fence. The defendants also do not dispute that the footprint of the northeast well house was properly included as the plaintiff's property pursuant to adverse possession.

¶ 28 The defendants argue that the plaintiff failed to satisfy the exclusivity, claim of title, and precise and definite boundary elements of adverse possession with regard to the three-foot strip of land outside the fenced enclosure and the unfenced portion of land east of the fence to Carpenter Road. The defendants argue that evidence that the plaintiff mowed the weeds, maintained the outside of the fence, gardened, and trained dogs in the disputed areas was insufficient to establish adverse possession. The defendants note that no structures were erected on the unfenced land, except the recently-erected portable shed

and garage with concrete pads.

¶ 29 To establish title to land under the 20-year adverse possession doctrine incorporated in section 13-101 of the Code of Civil Procedure (735 ILCS 5/13-101 (West 2010)), a party must prove that his or her possession of that land was: (1) continuous, (2) hostile or adverse, (3) actual, (4) open, notorious, and exclusive, and (5) under claim of title inconsistent with that of the true owner, for a period of 20 years. *Joiner v. Janssen*, 85 Ill. 2d 74, 81 (1981). All five of these elements must be shown to have existed concurrently for the full 20-year period before the doctrine will apply. *Id.*

¶ 30 In Illinois, actions alone can adequately convey the intent to claim title adversely to all the world, including the titleholder. *Id.* at 82. Although no deed is necessary to support ownership under the doctrine, where there is no deed or color of title a party has the added burden of establishing the location of the boundaries to which he claims. *Schwartz v. Piper*, 4 Ill. 2d 488, 493 (1954) Such boundaries must be definitely established at the inception, during the continuance, and at the completion of the period of adverse possession. *Id.* "The proof must be such as to establish with reasonable certainty the location of the boundaries of the tract to which the five elements of adverse possession are applied, and all of the elements must extend to the tract so claimed." *Wanless v. Wraight*, 202 Ill. App. 3d 750, 754 (1990).

¶ 31 As the doctrine of adverse possession can divest a previous titleholder of ownership, the standard for application is rigorous. All presumptions are in favor of the title owner. *Joiner*, 85 Ill. 2d at 81. In order to rebut the presumption in favor of the titleholder, the claimant must prove each element of adverse possession by clear and

unequivocal evidence. *Knauf v. Ryan*, 338 Ill. App. 3d 265, 269 (2003). We will not disturb the circuit court's findings unless they are against the manifest weight of the evidence. *Id.* A finding is against the manifest weight of the evidence only when the opposite conclusion is apparent or when findings appear to be unreasonable, arbitrary, or not based on evidence. *Kunkel v. P.K. Dependable Construction, LLC*, 387 Ill. App. 3d 1153, 1157 (2009). As the trier of fact, the trial judge was in a superior position to judge the credibility of the witnesses and determine the weight to be given their testimony. *Id.* at 1158.

¶ 32 The evidence at trial revealed that when the plaintiff purchased his property in 1982, Hamann had indicated to him that his northern boundary line began 20 feet north of the well house, east to the northwest corner post. The plaintiff began mowing, maintaining, and weeding the disputed strip shortly thereafter. The plaintiff, his wife, his son, and many of his neighbors testified that he, for over 20 years, continuously mowed 3 feet outside of the northwest fence and that his mow line traveled east to 20 feet north of the well house, onto Carpenter Road. The plaintiff also testified that he built a garage and concrete pad, trained puppies, maintained the fence, planted gardens, and seeded this area of property during the 20-year period.

¶ 33 Continuous Possession

¶ 34 The plaintiff and his witnesses testified that the plaintiff used the strip of property, to the mow line, throughout the years he lived there. They further testified that no one but the plaintiff and his family used or maintained the property at issue for over 20 years. The evidence further revealed that the defendants never attempted to exclude anyone

from the property. Accordingly, the trial court's finding that the possession was continuous was not against the manifest weight of the evidence.

¶ 35 Hostile Possession

¶ 36 The "hostility" element of adverse possession "does not imply actual ill will, but only the assertion of ownership incompatible with that of the true owner and all others." *Joiner*, 85 Ill. 2d at 81. " '[O]ccupancy to a visible and ascertained boundary for the statutory period is deemed the controlling feature in determining hostility in mistaken boundary-line cases.' " *Id.* at 83 (quoting 3 Am. Jur. 2d *Adverse Possession* § 39, at 125-26 (1962)). "Although evidence of the use and control over land is the typical manner by which any claimant establishes title by adverse possession, it must be clearly shown that the use of the land was adverse and not merely permissive, since permissive use of land, no matter how long, can never ripen into an adverse possessory right." *Mann v. La Salle National Bank*, 205 Ill. App. 3d 304, 309-10 (1990).

¶ 37 The plaintiff's witnesses each testified that while living on Old Carpenter Road, the plaintiff treated the land north of the fence and north of the well house, to the mow line, as his own. He engaged in dog training, mowing, and gardening in the area, as well as general maintenance. He installed a portable building, concrete, and garage in the disputed area. During the adverse possession period, the plaintiff believed and acted as if he owned the area. He asserted ownership of the disputed strip incompatible with that of the defendants and all others. The circuit court's finding that the plaintiff's possession of the land was hostile was not against the manifest weight of the evidence.

¶ 38 Actual Possession

¶ 39 The making of improvements or acts of dominion over land, indicating to persons residing in the immediate neighborhood who has exclusive management and control of the land, are sufficient to constitute possession. *Joiner*, 85 Ill. 2d at 82. "The law is well settled that adverse claimants need not erect a fence or other structures on the disputed land to prove actual possession." See *Brandhorst v. Johnson*, 2014 IL App (4th) 130923, ¶ 54; *Augustus v. Lydig*, 353 Ill. 215, 222 (1933) ("It is not necessary that land should be [e]nclosed by a fence or that a house should be erected on it to constitute possession, or that it should be reduced to cultivation.").

¶ 40 Here, the evidence demonstrated that the plaintiff exercised management, maintenance, and control over the disputed strip, which included the area 3 feet north of the fence and 20 feet north of the well house, during the 20-year adverse possession period, as if he were the true owner. Accordingly, the trial court's finding that plaintiff proved actual possession was not against the manifest weight of the evidence.

¶ 41 Open, Notorious, and Exclusive Possession

¶ 42 The adverse claimant's possession of the land at issue must " 'be of such open and visible character as to apprise the world, that the property has been appropriated, and is occupied.' " *Estate of Welliver v. Alberts*, 278 Ill. App. 3d 1028, 1038 (1996) (quoting *Travers v. McElvain*, 181 Ill. 382, 387 (1899)). Yard maintenance, such as mowing, gardening, and weeding, is of such an openly visible and notorious character that it may sufficiently demonstrate to the neighborhood that the person doing the maintenance has claimed ownership over the land. See *Brandhorst*, 2014 IL App (4th) 130923, ¶ 56

("Yard maintenance, such as mowing, weeding, and raking, is of such an openly visible and notorious character that it sufficiently demonstrates to the neighborhood that the person doing the maintenance has claimed ownership over the land."). "[E]xclusivity requires that the claimant possess the property independent of a like right in others, [and that] the opponent, the alleged rightful owner, must be altogether deprived of possession." *Malone v. Smith*, 355 Ill. App. 3d 812, 817 (2005).

¶ 43 For many of the same reasons that the plaintiff's possession was hostile and actual, so too was it open, notorious, and exclusive. The plaintiff presented sufficient evidence that he mowed a precise line which he believed was the boundary of his property for over 20 years, and the defendants never attempted to encroach on that line until the instant suit. The whole of the evidence supported the circuit court's conclusion that during the relevant statutory period, the plaintiff's occupation was open and visible to the world and that no one but the plaintiff maintained or regularly used the strip. Although the defendants argue that the plaintiff's use was not exclusive because they testified that they had planted and harvested crops on the unfenced area, we will not substitute our judgment for the circuit court's judgment on credibility matters because the fact finder is in the best position to evaluate the conduct and demeanor of the witnesses. See *Samour, Inc. v. Board of Election Commissioners of the City of Chicago*, 224 Ill. 2d 530, 548 (2007).

¶ 44 The plaintiff's evidence sufficiently established that he possessed the property independent of a like right in others, and the defendants were altogether deprived of possession during the 20-year statutory period. Accordingly, the trial court's finding that

the possession was open, notorious, and exclusive was not against the manifest weight of the evidence.

¶ 45 Claim of Title Inconsistent With That of the True Owner

¶ 46 The defendants argue that because the plaintiff did not actively warn or prevent the defendants from using the unfenced land, the evidence did not show that the plaintiff continuously excluded the defendants' use of a definable portion of that land for farming over the entire 20 years, except where the well house was located. However, the plaintiff was not required to prove that he excluded or warned the defendants from using the strip during the 20-year period. See *Brandhorst*, 2014 IL App (4th) 130923, ¶ 57. "Using and controlling property as owner is the ordinary mode of asserting a claim of title inconsistent with that of the true owner." *Peters v. Greenmount Cemetery Ass'n*, 259 Ill. App. 3d 566, 570 (1994). This element is similar to the elements of actual possession and hostility. See *Brandhorst*, 2014 IL App (4th) 130923, ¶ 60. Based upon the evidence already mentioned, we conclude that the trial court's finding that plaintiff satisfied this element of adverse possession was not against the manifest weight of the evidence.

¶ 47 Boundary Line

¶ 48 The defendants argue that, with regard to the unfenced land along and north of the plaintiff's northeast deed line (from the northeast fence corner continuing east to Old Carpenter Road), the plaintiff failed to prove that his possession was of a definitely defined tract. The defendants argue that it was impossible to determine the precise boundaries of the parcel claimed.

¶ 49 In a case where an adverse possessor is claiming land pursuant to a mistaken or disputed boundary, he bears the burden of establishing by clear and convincing proof the location of the boundary. *Joiner*, 85 Ill. 2d at 83. " 'The proof must be such as to establish with reasonable certainty the location of the boundaries of the tract to which the five elements of adverse possession are applied and all of the elements must extend to the tract so claimed.' " *Joiner*, 85 Ill. 2d at 83-84 (quoting *Schwartz*, 4 Ill. 2d at 493). " 'While it is not necessary that the land should be enclosed by a fence, the boundaries must be susceptible of specific and definite location.' " *Id.* A clearly visible boundary marker is adequate. *Joiner*, 85 Ill. 2d at 79 (tree and bush line formed a "definitely ascertainable boundary"); *Bakutis v. Schramm*, 114 Ill. App. 3d 237, 241-42 (1983) (two markers showing former location of fence formed a definitely ascertainable boundary).

¶ 50 The plaintiff sufficiently established the existence of the claimed boundary line documented in the proposed survey, which was supported by testimony and documentary evidence. The evidence revealed that in 1982 the plaintiff went into possession of his property, including the disputed strip north of his property. The plaintiff properly demonstrated that he continuously maintained through the use of a definite mow line boundary all of the property from 3 feet north of his fence line, moving eastward to 20 feet north of the well house, onto Carpenter Road. See *Noakes v. Slover*, 149 Ill. App. 3d 454, 456 (1986) ("That the instant fence did not span the entire boundary was merely one fact to consider in deciding its value as a boundary location marker.").

¶ 51 We therefore find that the plaintiff sufficiently met his burden of proving by clear and convincing evidence the exact location of the boundary line to which he claimed. *Cf.*

Schwartz, 4 Ill. 2d at 494 (where fence was removed 30 years before suit and no visible trace of its location remained after removal, plaintiffs failed to prove exact location of boundary line to which they claimed). The circuit court's decision was not against the manifest weight of the evidence.

¶ 52 The defendants further argue that there was no testimony or other evidence that the north line of the tract of land awarded to the plaintiff, as described in the circuit court's order, was 20 feet north of the well house or anywhere near the location of the purported mow line. The defendants argue that Collman, who prepared the legal description, testified only to the area 3 feet north of the existing fence line but did not reference the line 20 feet north of the well house.

¶ 53 The circuit court adopted Collman's proposed legal description that encompassed the area extending three feet to the north of the north fence line and extended from the fence east to Old Carpenter Road. The plaintiff testified that he had requested that Collman prepare the proposed legal description of the defendants' property that he had been using and occupying while he lived there. The plaintiff testified that he had used and occupied not only 3 feet north of the fence line but 20 feet north of the well house. The plaintiff's witnesses corroborated this testimony. We find no error.

¶ 54 Having addressed those contentions on appeal that the defendants argued and supported by citation to relevant authority, we hereby affirm the circuit court's order. See *Brown v. Tenney*, 125 Ill. 2d 348, 362 (1988) (citing Ill. S. Ct. R. 341(e)(7) (eff. Aug. 1, 1988) (now Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013))).

¶ 55 CONCLUSION

¶ 56 For the reasons stated, we affirm the judgment of the circuit court of Madison County.

¶ 57 Affirmed.