

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1606**

Leonard Zimmer, et al.,
Appellants,

vs.

Pine Lake Township,
Respondent.

**Filed May 22, 2023
Affirmed
Connolly, Judge**

Cass County District Court
File No. 11-CV-20-1327

John E. Mack, New London Law, P.A., New London, Minnesota (for appellants)

Kenneth H. Bayliss, Quinlivan & Hughes, P.A., St. Cloud, Minnesota (for respondent)

Considered and decided by Worke, Presiding Judge; Connolly, Judge; and Bratvold,
Judge.

SYLLABUS

Dedication of a public road that does not meet a township's standards does not impose on that township an obligation to improve and maintain that road.

OPINION

Appellants-landowners challenge the district court's grant of summary judgment, holding that the dedication to respondent-township of a road that does not meet the township's standards for a road did not obligate the township to accept ownership of the road, improve it, and maintain it. We affirm.

FACTS

Plantain Trail is a road located in respondent Pine Lake Township. In 2008, the residents of six properties on Plantain Trail met to discuss the repairs necessary to bring the road up to township standards so the township would accept it for ownership as a public road. The cost of the repairs was determined to be \$30,000.

In 2016, the fee owners of Plantain Trail executed a deed dedicating it to the public. In 2017, appellants Leonard and Virginia Zimmer, owners of property on Plantain Trail, formally requested Pine Lake Township to maintain it as a township road. The township denied the request, and the Cass County Board of Commissioners upheld the denial. Appellants did not challenge this decision.

In 2018, appellants filed an action against the township in district court. The township moved to dismiss on the ground that appellants' only remedy after the County Board's denial of the request to maintain the road was to petition for a writ of certiorari in this court. The district court determined that: (1) the public had used the road for decades, creating a public road by dedication; (2) the township did not have to accept that dedication; (3) the district court lacked jurisdiction because appellants' only remedy was to petition for a writ of certiorari in this court; and (4) the township's motion to dismiss would be granted. Appellants did not challenge the dismissal. In 2019, appellants again asked the township to recognize Plantain Trail as a township road and to maintain it. The township again denied the request, and appellants did not challenge that denial.

In 2020, appellants filed another action in district court, alleging that Plantain Trail had been used by the public since 1994 and been "constructively dedicated" as a public

road by deed in 2016; the township had repaired and maintained Plantain Trail; and the township denied that Plantain Trail was a township road and refused to repair and maintain it. Appellants sought a court order (1) declaring Plantain Trail to be a roadway owned and maintained by the township and (2) granting a writ of mandamus requiring the township to repair and maintain Plantain Trail as a public roadway. The township moved to dismiss appellants' complaint, and the district court granted the motion, finding that the 2020 case was identical to appellants' 2018 case and that appellants' only remedy had been to seek a writ of certiorari in this court. Appellants challenged the dismissal in this court. In an order opinion, we reversed and remanded for further findings, on the ground that we were unable to review the district court's decision. *Zimmer v. Pine Lake Township*, No. A21-0166 (Minn. App. Oct. 15, 2021).

Appellants filed an amended complaint, and both sides moved for summary judgment. The district court noted that the parties agreed that the "narrow issue before this Court is whether the dedication of the roadway and acceptance by public use automatically makes Plantain Trail a township road by common law dedication that [the township] must maintain" or whether respondent has "a right to say [appellants] have to bring [Plantain Trail] to [the township's] specifications before [the township] accept[s Plantain Trail] and take[s] on future maintenance." The district court concluded that: (1) the township has repeatedly voted to *not* open and assume maintenance of Plantain Trail, (2) it is up to the township to determine if and when to accept Plantain Trail, and (3) the township's acceptance is contingent on bringing Plantain Trail up to respondent's road standards. The

district court therefore granted the township’s motion for summary judgment and denied appellants’ motion for the same. Appellants challenge the summary judgment.

ISSUE

May the township require appellants to bring Plantain Trail up to township road standards before it becomes a township road?

ANALYSIS

“We review the grant of summary judgment de novo to determine whether there are genuine issues of material fact and whether the district court erred in its application of the law.” *Montemayor v. Sebright Prods., Inc.*, 898 N.W.2d 623, 628 (Minn. 2017) (quotation omitted). “We review the evidence in the light most favorable to the party against whom judgment was granted.” *STAR Ctrs., Inc. v. Faegre & Benson, LLP*, 644 N.W.2d 72, 76-77 (Minn. 2002). There is no genuine issue of material fact “where the record taken as a whole could not lead a rational trier of fact to find for the nonmoving party.” *DLH, Inc. v. Russ*, 566 N.W.2d 60, 69 (Minn. 1997) (quotation omitted).

Our supreme court has recognized that “when a street is dedicated by plat, a city may choose its own time to occupy, open, and use the street.” *Village of Medford v. Wilson*, 230 N.W.2d 458, 459 (Minn. 1975). And in *In re Maint. of Rd. Areas Shown on Plat of Suburban Estates*, the supreme court stated that “the mere platting of the land did not instantly create an obligation upon the town board to open and maintain the dedicated streets. Our cases have consistently held that the municipality may determine the time it will open a street and assume the maintenance thereof.” 250 N.W.2d 827, 831 (Minn. 1977); see *In re Application of Moratzka*, 988 N.W.2d 42, 51 (Minn. 2023) (referencing

“the flexibility that cities and counties have in developing and using platted roadways”); *see also* 26 C.J.S. *Dedication* § 38 (2011) (stating that “[p]rivate property cannot be forced on a public authority without its consent”). We agree with the district court that “[a]lthough [*Suburban Estates*] involved dedication by the filing of a plat, the principle underlying the decision is broadly understood to be the law and applies to common law dedication as well.” Therefore, the district court’s observation that “Plantain Trail’s status as a public road does not necessarily mean that Pine Lake Township is obligated to open and maintain Plantain Trail” is supported by case law.

DECISION

Because dedication of a road that does not meet a township’s standards cannot impose on a township the obligation to improve and maintain the dedicated property, the township has no obligation to improve and maintain Plantain Trail.

Affirmed.