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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

PAUL E. PELLETT and BETTY LOU PELLETT,

Plaintiffs-Appellants,

vs.

ATLANTIC MUNICIPAL UTILITIES,

Defendant-Appellee.

Filed October 21, 1980

0-224
2-63443

Appeal from Cass District Court - E. F. Hanson, Judge.

Plaintiffs' appeal challenges the award of compensation for defendant's taking of an easement over their property by right of eminent domain. AFFIRMED.

Jon J. Gergen and Dale D. Kuhlman of Kuhlmann & Gergen, Omaha, Nebraska, and Harold G. DeKay, Atlantic, Iowa; attorneys for plaintiffs-appellants.

James C. Wells, Atlantic, Iowa, for defendant-appellee.

Heard by Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

Plaintiffs' appeal challenges the award of compensation for defendant's taking of an easement over their property by right of eminent domain. Plaintiffs argue trial court erred in granting defendant's motion in limine, accepting testimony from some of defendant's witnesses and refusing to grant a new trial based on an allegedly inadequate jury award. We affirm.

On August 11, 1977, defendant condemned an easement, thirty to thirty-five feet wide, to construct a high-voltage electric line along the eastern edge of plaintiffs' property. One pole is located on that property close to an adjoining river; electric line overhang is minimal. The condemnation commission made an appraisal and awarded plaintiffs $4500. Plaintiffs appealed that award by filing a petition at law in the district court. See section 472.21, The Code. On February 9, 1979, the jury returned a verdict for plaintiffs in the amount of $4,000.

Immediately preceding commencement of the trial, defendant filed a motion in limine seeking to prevent plaintiffs from introducing certain evidence relating to the dangers involved in having electric lines near areas of human activity and evidence relating to an alleged incident in Missouri where someone was electrocuted while on a combine near an electric line. Trial court sustained the motion. During the course of the trial, plaintiffs made an offer of proof as to the nature of the proposed testimony in the absence of the jury. The trial court again ruled that the testimony was not admissible.

I. Plaintiffs first urge that exclusion by the trial court of the evidence which was the subject of defendant's motion in limine was reversible error. It is clear that the ruling by the trial court on the motion in limine does not by itself constitute an appealable issue. Simkins v. City of Davenport, 232 N.W.2d 561, 565 (Iowa 1975). To preserve and present the issue for appellate review, the party against whom the motion was granted should make an offer of proof during the course of the trial. Twyford v. Weber, 220 N.W.2d 919, 923 (Iowa 1974).

As previously noted, plaintiffs did make an offer of proof during the course of trial which was rejected by the trial court. Given this circumstance, we conclude that plaintiffs' claims of error are limited by the extent of such offer of proof and may not be allowed to extend to the full scope of the motion in limine. Plaintiffs' offer of proof concerns the testimony expected to be given by two witnesses. The first offer was as follows:

> . . . that if the Plaintiff were to call one, and be allowed to call one Donald Dunkmann, the Plaintiff would ask of Mr. Dunkmann relative to his experiences in and about electric transmission lines, and Mr. Dunkmann would testify that in his personal experience he had received shocks from equipment and had had one member of his family and two other members electrocuted from contact with farm equipment having sat near electric transmission line.

We find this offer to be inadequate for purposes of predicating reversible error. No similarity was shown between the claim being litigated in the present case and the events to which the witness proposed to testify. Plaintiffs, in their written argument, concede that this is true, but argue that the trial court's ruling on the motion in limine precluded further efforts to connect up the proposed testimony. We disagree. The trial court's order cannot be interpreted as in any way limiting the scope of plaintiffs' offer of proof made out of the presence of the jury.

The second offer of proof made by plaintiffs was as follows:

> . . . if the Plaintiff were allowed to ask of one Richard Stevens, were allowed to inquire of Richard Stevens as to the safety of the present 161,000 volt, KV line, Mr. Stevens would testify that such line, that there is a possibility of danger and possibly of shock although maybe minimal.
>
> The Plaintiff would make the further offer that if the Plaintiff were allowed to ask Mr. Stevens the reasons for the construction of two power lines north of Atlantic, that one of the reasons would be because of the possibility of one of the lines coming down. Mr. Stevens would testify that one of the considerations and one of the reasons would be the possibility of one of the lines coming down and the two lines were there partly because of to maintain the integrity of the system itself.

Again, we find the offer insufficient to support a claim of reversible error. Our review of the rest of the trial record convinces us that the proferred testimony does not show a degree of danger or inconvenience greater than that assumed to be the case by the several expert valuation witnesses who testified as to the effect the transmission line would have on the value of plaintiffs' property. We believe the absence of such a showing is, on the present record, fatal to plaintiffs' claim of reversible error.

II. Plaintiffs next argue trial court error in allowing certain of defendant's witnesses to testify. Robert Goeken, a real estate appraiser, testified plaintiffs' property decreased in value only to the extent of $500. He also said he believes the public is generally not concerned about and does not consider the existence of electric lines when purchasing an acreage. Part of that opinion was based on what other brokers told him. Plaintiffs objected to that testimony as hearsay; the objection was overruled.

We cannot agree with plaintiffs' argument. Otherwise, we would have to say that no expert may ever testify as to matters within his expertise unless he learned the information from his own direct observations. At least part of an expert's knowledge is derived from what has been learned from other experts. This was at least implicitly recognized in Hedges v. Conder, 166 N.W.2d 844, 857 (Iowa 1969): "'[t]he knowledge may in some fields be derived from reading alone, in some from practice alone, or as is more commonly the case, from both.'" Quoting McCormick on Evidence, § 13 (1954). Admission of opinion evidence is largely within the trial court's discretion and we will not interfere absent a showing of manifest abuse. Becker v. D & E Distributing Co., 247 N.W.2d 727, 733 (Iowa 1976). We find no such abuse; therefore, no error was committed in allowing Goeken to testify.

Harold Joyce, an insurance adjuster who previously was a farmer for forty years, testified that he thought the easement reduced the value of plaintiffs' acreage by only $5,000. Plaintiffs objected, claiming no proper or sufficient foundation was laid for that testimony. The objections were overruled; plaintiffs challenge that decision. Once again, however, they have failed to preserve error. According to Hedges, 166 N.W.2d at 856,

> . . . reversible error cannot be predicated upon the general objection that no proper foundation has been laid for admission of the opinion. "A party objecting to the offer of evidence for this reason must point out in what particular or particulars the foundation is deficient so the adversary may have an opportunity to remedy the alleged defect, if possible."

Quoting State v. Entsminger, 160 N.W.2d 480, 482-83 (Iowa 1968). See also Fischer, Inc. v. Standard Brands, Inc., 204 N.W.2d 579, 583 (Iowa 1973). Plaintiffs' objection to the lack of foundation was not sufficiently specific to apprise defendant of how the foundation was inadequate; we therefore have nothing to review.

Charles Perrin, a licensed real estate broker, testified he thought the value of plaintiffs' acreage was reduced by $4,000-$5,000 as a result of the condemned easement. He also said the general public is not too concerned about living near high-voltage power lines. Plaintiffs claim this testimony should not have been admitted. The record, however, indicates they made no objections to Perrin's testimony whatsoever and are raising these arguments for the first time on appeal. We therefore do not consider this issue. Dickman v. Truck Transport, Inc., 224 N.W.2d 459, 465 (Iowa 1974).

III. Finally, plaintiffs argue the jury's verdict of $4,000 is not supported by substantial evidence and is so grossly inadequate that it shocks the conscience and

raises a presumption of passion or prejudice on the part of the jury. We do not agree. Three of the witnesses at trial testified the decrease in value of the property resulting from the condemned easement was minimal at best, the figures ranging from $500 to $5,000. It is true that plaintiffs' witnesses testified the reduction in value was much greater. However, it is also true that:

> [a] condemnation case is one in which the amount allowed is peculiarly within the province of the trier of fact, and unless the same be shown to be so extravagant or penurious as to be wholly unfair and unreasonable this court has repeatedly refused to interfere with the award.

Van Horn v. Iowa Public Service Co., 182 N.W.2d 365, 372 (Iowa 1970). The jury's award of $4,000 is within the range of values testified to in trial and is supported by substantial evidence. Although the award is relatively low, we cannot say it is so grossly inadequate as to shock the judicial conscience. Trial court correctly overruled plaintiffs' motion for a new trial.

We find no reversible error and therefore affirm the trial court in all respects.

AFFIRMED.