FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

302

ROBERT M. MONTZ and **SHIRLEY F. MONTZ,**	)	
Plaintiffs-Appellees,	)	Filed May 28, 1985
vs.	)	
HILL-MONT LAND COMPANY and **CENTRAL IOWA RAILWAY AND DEVELOPMENT CO.,**	)	5-140 83-846
Defendants-Appellants.	)	

Appeal from the Iowa District Court for Keokuk County - Robert Bates, Judge.

Defendants appeal from the district court decree quieting title in abandoned rail line property in favor of the plaintiffs. AFFIRMED.

Robert N. Downer and Thomas D. Hobart of Meardon, Sueppel, Downer and Hayes, Iowa City, for defendants-appellants.

H. Michael Neary of Gerard & Neary, Sigourney, for plaintiffs-appellees.

Considered by Oxberger, C.J., and Donielson and Hayden, JJ.

DONIELSON, J.

Defendants appeal from the district court decree quieting title in an abandoned rail line property in favor of the plaintiffs. Defendant Hill-Mont Land Company asserts that it is a successor in interest to railroad property which was originally conveyed as a fee title rather than an easement as determined by the trial court. We affirm.

In 1879, a hundred-foot right-of-way was sold and conveyed by warranty deed to the Iowa City and Western Railway Company or to the Burlington, Cedar Rapids and Northern Railway Company. The property was to be conveyed to the railroad which first provided the consideration of construction of the railway and payment of $225.00. The granting clause of the deed specifically described the conveyance as a right-of-way for the construction and operation of a railroad. The habendum clause added that the railroad was

> To have, hold and enjoy the land . . . with the appurtenances forever for any and all uses and purposes in any way connected with the construction, operation, preservation, occupation and improvement of said railway.

All real estate taxes on the property were paid by the railroads and their successors in interest. The rail line was abandoned by order of the Interstate Commerce Commission in 1978.

Defendant Central Iowa Railway last operated the rail line and its property interest was subject to a bank mortgage. A bank purchased the property at a sheriff's sale held after foreclosure. The property was subsequently conveyed to defendant Hill-Mont Land Company.

Plaintiffs own land divided by the abandoned rail line property. They filed a petition for declaratory judgment asking the court to quiet title to the rail line property. The trial court found that the initial grantor conveyed an easement and quieted title in favor of the plaintiffs. The defendants have appealed from this determination.

We have reviewed the facts of this case and conclude, as the trial court did, that Hawk v. Rice, 325 N.W.2d 97 (Iowa 1982), is dispositive on all arguments raised by defendants. In Hawk, the supreme court interpreted a railroad deed with a granting clause and habendum clause identical to those in the deed now before this court. Id. at 96-99. There it was held that such language served to convey an easement. Id. at 100. We see no reason to depart from this ruling.

Defendants point to the fact that the consideration in the present case was close to the market value. It is argued that this would indicate that the grantor intended to convey more than an easement. We disagree. As the Hawk court indicated, it would not be unusual for an easement to be priced close to market value. Id. at 100. The interest conveyed was substantial and possibly permanent.

In accordance with Hawk, we therefore conclude that the deed in question conveyed an easement. While defendants argue that Hawk should be overruled, we are not inclined to do so. Accordingly, the trial court decision is affirmed in all respects.

AFFIRMED.