

**NOT FOR PUBLICATION WITHOUT THE  
APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-5578-16T3

DEBORAH J. DOREMUS,

Plaintiff-Appellant,

v.

ANGELO DELORENZO and  
DAWN DELORENZO,

Defendants-Respondents.

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Argued telephonically May 22, 2018 –  
Decided May 31, 2018

Before Judges Fasciale and Sumners.

On appeal from Superior Court of New Jersey,  
Law Division, Camden County, Docket No.  
L-4394-15.

Mark J. Molz argued the cause for appellant.

Cindy B. Shera argued the cause for  
respondents (Law Offices of Debra Hart,  
attorneys; Cindy B. Shera, of counsel and on  
the brief).

PER CURIAM

Plaintiff appeals from a July 21, 2017 order granting  
defendants' motion for summary judgment. We affirm.

When reviewing an order granting summary judgment, we apply "the same standard governing the trial court." Oyola v. Liu, 431 N.J. Super. 493, 497 (App. Div. 2013). We owe no deference to the motion judge's conclusions on issues of law. Manalapan Realty, L.P. v. Twp. Comm. of Manalapan, 140 N.J. 366, 378 (1995). Both parties moved for summary judgment, but because the judge granted judgment in favor of defendants, we consider the facts in a light most favorable to plaintiff. Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 523 (1995).

Plaintiff filed a complaint against defendants alleging she sustained personal injuries while walking on the sidewalk by 38 Fifth Avenue, Mount Ephraim, New Jersey (the property). Defendants own the property, a residential home, and have lived there since 1990.

Plaintiff asserts that Mount Ephraim Borough's ordinance section 83-1 (the Ordinance) requires abutting property owners to maintain the sidewalk, and failing to do so imposes liability on the property owner. The Ordinance states:

In and on any public street, highway, avenue or alley in the Borough of Mount Ephraim, the grade of which has been lawfully established or which may hereafter be established, curbs and sidewalks shall be set or reset, laid or relaid, altered, repaired, constructed and maintained at the expense of the abutting property owner as provided by law.

Our courts have long held that municipal ordinances cannot create tort liability with regard to residential landowners. In Luchejko v. City of Hoboken, 207 N.J. 191, 200 (2011) (alteration in original) (quoting Fielders v. N. Jersey St. Ry. Co., 68 N.J.L. 343, 352 (E. & A. 1902)), our Supreme Court explained that

it has long been the law in this state that breach of an ordinance directing private persons to care for public property "shall be remediable only at the instance of the municipal government . . . and that there shall be no right of action to an individual citizen especially injured in consequence of such breach."

The Court further stated, "such ordinances are not adopted for the intended purpose of protecting individual members of the public, but rather are to impose upon those regulated 'the public burdens of the municipal government.'" Id. at 200-01 (quoting Fielders, 68 N.J.L. at 355).

It is also well-settled law that residential homeowners are not liable for injuries caused by the condition of sidewalks abutting their property, but are liable "for the negligent construction or repair of the sidewalk by himself or by a specified predecessor in title or for direct use or obstruction of the sidewalk by the owner in such a manner as to render it unsafe for passersby." Yanhko v. Fane, 70 N.J. 528, 532 (1976), overruled in part by Stewart v. 104 Wallace St., Inc., 87 N.J. 146 (1981);

see also Liptak v. Frank, 206 N.J. Super. 336, 337-39 (App. Div. 1985).

Applying these principles, the judge properly determined that the Ordinance does not and cannot impose liability on defendants; and because defendants never attempted to repair nor obstruct the sidewalk, they are "protected by common-law public sidewalk immunity." Lodato v. Evesham Twp., 388 N.J. Super. 501, 507 (App. Div. 2006).

We conclude plaintiff's remaining argument is without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.

I hereby certify that the foregoing is a true copy of the original on file in my office.

  
CLERK OF THE APPELLATE DIVISION