Order filed October 31, 2019. Modified upon denial of rehearing December 5, 2019.

2019 IL App (5th) 190062-U

NO. 5-19-0062

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

ELMER DEAN OELZE, JEFFERY E. OELZE, and WILLIAM A. OELZE,	)	Appeal from the Circuit Court of Clinton County.
Plaintiffs-Appellees and Cross-Appellants,	)	
v.	)	No. 16-CH-23
MCDONALD MOBILE HOMES, INC., and N.M. LAND, LLC,	)	Honorable Allan F. Lolie Jr., Judge, presiding.
Defendants-Appellants and Cross-Appellees.	)	

JUSTICE MOORE delivered the judgment of the court.
Justices Welch and Boie concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's finding that the plaintiffs proved the required elements of adverse possession was not against the manifest weight of the evidence where the evidence showed that the plaintiffs' predecessors had constructed buildings and a driveway on the disputed tract of land and continuously farmed the disputed tract of land for the requisite 20-year period.

¶ 2 On May 13, 2016, the plaintiffs, Elmer Oelze, Jeffery Oelze, and William Oelze, filed a lawsuit in the circuit court of Clinton County against the defendant, McDonald Mobile Homes, Inc., to quiet title to a disputed tract of land located between the plaintiffs' and the defendant's properties. On September 22, 2016, the plaintiffs amended their

complaint and added N.M. Land, LLC, as codefendant to the lawsuit. The plaintiffs' complaint alleges that they have obtained a right to the disputed tract of land through adverse possession under sections 13-101 and 13-109 of the Code of Civil Procedure (Code) (735 ILCS 5/13-101, 13-109 (West 2016)), the latter of which pertains to the payment of taxes on a piece of property under color of title in order to adversely possess and gain a right to said property. The trial court held a bench trial on October 22, 2018. On January 7, 2019, the trial court entered judgment for the plaintiffs on their claim for adverse possession under section 13-101 of the Code (*id.* § 13-101), but found against the plaintiffs on their claim for adverse possession under section 13-109 of the Code (*id.* § 13-109). Additionally, the trial court denied the plaintiffs' posttrial motion to amend their complaint to claim relief by way of an easement by prescription.

¶ 3 The defendants now appeal, arguing the trial court erred in finding the plaintiffs had established all the elements required for adverse possession under section 13-101 of the Code (*id.* § 13-101) and erred in finding that the plaintiffs had properly established the boundary of the disputed property to which they claim adverse possession. The plaintiffs cross-appeal, arguing that the trial court erred in finding they failed to establish the elements required for adverse possession under section 13-109 of the Code (*id.* § 13-109), pertaining to the payment of taxes on property under color of title. Additionally, the plaintiffs argue that the trial court erred in denying their motion to amend their complaint to add a claim of relief of an easement by prescription. As discussed in detail below, we find that the trial court did not err in finding that plaintiffs established the necessary elements of adverse possession under section 13-101 of the Code (*id.* § 13-101), and thus,

affirm the trial court's ruling. As a result, the other issues raised are moot and need not be addressed.

¶ 4 FACTS

¶ 5 A. Description of Disputed Property

¶ 6 The plaintiffs are the owners of approximately 36 acres in Clinton County, Illinois (the Broeckling farm). The plaintiffs acquired this property on December 31, 2015, pursuant to a deed from the previous owners, the Broeckling family. The defendants are the owners and lessors of approximately 40 acres immediately west of Broeckling farm (the MMH property). Both properties are generally square in shape and the western border of the Broeckling farm abuts the eastern border of the MMH property, resulting in a shared border.

¶ 7 A roadway, known as Base Road, runs east and west along the northern border of the properties. In the general area of the boundary between the parties' properties, Base Road forks off in a southerly direction for over 1000 feet before ending. This lawsuit has arisen because Base Road, from the point that it forks south, does not run exactly along the boundary between the parties' properties. Instead, it forks off south approximately 68 feet west of the eastern boundary of the MMH property and proceeds to a point that intersects with the boundary line approximately 1100 feet south. Thus, because of the manner in which Base Road runs south, approximately 1.16 acres of MMH property is separated from the remaining portion of the MMH property. This triangle of land is the "disputed property" for which both parties claim ownership.

¶ 8 The disputed property consists of unfenced farmland that has Base Road and a ditch on its eastern border. The disputed property is located within the legal description of MMH property and the plaintiffs acknowledge that the defendants own legal title to the land. In 2015, when the plaintiffs purchased Broeckling farm, the plaintiffs received a general warranty deed for the portion legally recognized as Broeckling farm but received only a quit claim deed for the disputed property.

¶ 9 B. Testimony at Trial

¶ 10 At trial, opening statements were waived by the parties and live witnesses were called by the parties and testified before the court. The parties also agreed to submit certain witness evidence depositions for the court to review following live testimony, as well as to submit their written closing statements.

¶ 11 The first witness called by the plaintiffs was Kenneth Graul, a corn and soybean farmer who leased the MMH property. He testified that he had farmed the MMH property from approximately 1987 through 2013. Graul testified that he believed the eastern boundary of the MMH property to be Base Road and that he held this belief during the time that he was farming the MMH property. Graul testified that present on the property was a fence located in the northeast corner which he removed sometime in the mid-1990s. Graul testified that he knew the property on the east side of Base Road to be owned by Virginia Broeckling at one time and that her kids then took over ownership after her death. Graul knew the property had been owned by Virginia because "everybody in the area called it her farm." When asked about the activities he observed occurring on the disputed property during the years he farmed the MMH property, he stated that he observed the "neighbor"

was farming all the property east of Base Road, including the disputed property. Graul denied that he ever farmed on any portion of the disputed property. Graul testified that he recalled a house that was located on the property but had been torn down before he began farming the MMH property. Graul further testified that all the plat maps that he reviewed during his time farming the MMH properties showed Base Road as the eastern boundary for the MMH property.

¶ 12 Ralph Sauerhaege was next called to testify. Sauerhaege farmed the Broeckling farm for approximately 25 years, first beginning around 1980. He had an agreement with Barbara Surmeier, the daughter of Frank Broeckling, that the property would be farmed, and the proceeds received from his farming would be distributed one-third to Surmeier and two-thirds to him. He stopped farming the Broeckling farm in 2015. Sauerhaege was specifically asked about the disputed property and testified that he farmed that land believing it to be owned by Barbara Surmeier. He planted crops on the disputed property every year during the 25 years he farmed the Broeckling farm.

¶ 13 On cross-examination, Sauerhaege confirmed his previous testimony stating, "I farmed it all. I farmed the whole [Broeckling farm] that was tillable plus what was in—[the disputed property]. I farmed everything up to Base Road that was tillable in that 40 acres." However, he did admit that he likely began farming the Broeckling farm sometime in the early 1990s instead of the previous early 1980s. He testified that no buildings existed on the property during the time he farmed it. He testified that he did not plant in the ditches which ran along Base Road and was unsure how far off the roadway he would have started planting. The property boundaries were never explicitly stated or shown to him by anyone.

¶ 14 The plaintiffs next called professional land surveyor Joseph Langhauser. Langhauser testified that he was asked to conduct a survey of the MMH property by Mr. Joe Kehr in late 2013 or early 2014. He testified that he conducted research regarding the property, including previous surveys, deeds, and public records, and reduced those findings into a plat. He then discussed the legal boundaries of the disputed property.

¶ 15 On cross-examination, Langhauser testified that the disputed property fell entirely within the legal description of the MMH property according to his 2014 survey. While doing his survey he placed 5-foot steel fence posts covered with 6½ foot white PVC posts to mark the boundary. He testified that he did this so that anyone looking at the property could observe where the boundary of the MMH property was located. The pipes or markers would have been in place in January 2014. Langhauser testified that on March 7, 2016, Joe Kehr phoned him and asked him to install four concrete markers along the east edge of the disputed property, which were placed as requested.

¶ 16 Next, Jeffery Oelze, one of the plaintiffs who is a current co-owner of the Broeckling farm, testified. Mr. Oelze purchased the Broeckling farm in 2015. Since the property was purchased, it has been farmed by Ken Pelthous who is his tenant farmer for the property. He has been around the Broeckling farm consistently since the 1980s and always known the property east of Base Road to be one farm due to the pattern of planting and harvesting. It was his understanding at the time of purchase of the Broeckling farm that the western property line went all the way up to Base Road. He was not made aware that anyone was making a claim to the disputed property. He did see the survey posts but did not know why

they were present. Despite the stakes being present, once he owned the property, he had Mr. Pelthous farm around the stakes and plant the entire property up to Base Road.

¶ 17 The defendants called Richard L. McDonald, the vice president and secretary of McDonald Mobile Homes, to testify. He testified that the McDonalds have owned the MMH property since 1968. During their ownership of the MMH property, they have "let farm whoever was farming [the disputed property] farm it. We've never farmed it." Mr. McDonald testified that his father told him he gave the Broeckling farm owners permission to continue to farm it in approximately 1970. He did not say who specifically he gave the permission to or when the permission was given. He also testified that there was no consent given for anyone to build any structures on the MMH property on the east side of Base Road.

¶ 18 Barbara Surmeier, formerly Barbara Broeckling, and her brother Henry Broeckling, both testified via evidence depositions. They were the last in the Broeckling family line to hold ownership to the Broeckling farm. Barbara testified that she could recall her grandparents Frank and Louise Broeckling owned the property when she was a child around the early to mid-1950s. Her father, Franklin Broeckling, took over the property sometime around 1976. In 2001, Franklin died and the property passed into a family trust named the Trust Number 100. Barbara and Henry were named the trustees of that trust. Barbara and Henry, as trustees, then sold the Broeckling farm to the plaintiffs in 2015. Barbara further testified that for as long as she could remember her family lived on the Broeckling farm. She recalled "[t]here was a barn and *** there was the house" and "buildings that *** held some machinery for the farming."

¶ 19 Barbara testified that her grandparents lived in the home on Broeckling farm from 1918 through sometime in the 1950s. Joe Kehr had the land resurveyed in 2014. Thereafter, Ralph Sauerhaege informed her that Mr. Kehr had stated he was going to take over the disputed property and not let anyone use Base Road anymore. This was the first that she had learned that this piece of the property was being claimed by the defendants. Prior to 2014, she believed that the disputed property belonged to her family. Carl Kehr, Joe Kehr's father, used to farm the Broeckling farm and he demolished all of the buildings in the 1980s.[1] According to Barbara, the disputed land was farmed by her grandfather, Frank, then Carl Kehr, then Ralph Sauerhaege. Ralph farmed from 1993 to 2015. To her knowledge no one other than her grandfather, father, and the trust has owned or occupied the disputed property.

¶ 20 Barbara's husband, Lester Surmeier, also testified by evidence deposition. Lester testified that he had visited the Broeckling farm on a number of occasions extending back to the 1960s. He recalled seeing the house and a couple other buildings on the property before they were torn down. He confirmed that he had witnessed Carl Kehr and Ralph Sauerhaege farming the Broeckling property in the past. He also confirmed on his visits that he observed that the disputed property had crops planted on it the same as the rest of the Broeckling farm. He was never aware that anyone else claimed ownership of the

[1]Based upon the testimony of Barbara Surmeier, Carl Kehr farmed the Broeckling farm as a tenant farmer. Carl is the father of Joe Kehr, who is an owner of one of the defendants. None of the parties have argued that Carl was farming the Broeckling farm on behalf of the defendants. Further, Richard McDonald's testimony seems clear that no one from the defendants ever farmed any part of the disputed property or Broeckling farm. Because we have not been briefed on the details of Carl's relationship with the defendant companies or the details of his farming the Broeckling farm any such argument is waived.

disputed property prior to the lawsuit. He believed the land to the east of Base Road was all a part of the Broeckling farm because Base Road was a simple unpaved road that he considered to be a "farm lane" that allowed them to access their property. He also recalled a fence or tree line to the west of Base Road which he assumed designated the boundary between the properties.

¶ 21 Henry Broeckling testified by evidence deposition as well. Henry testified to a brief history of the Broeckling farm which was consistent with that testified to by Barbara, who is his sister. He further testified that based upon his knowledge, the disputed property was a part of the Broeckling farm and held in the Trust Number 100. He also recalled the presence of a farmhouse, outbuildings, and a barn on the property, as well as his grandparents living in the farmhouse and using Base Road to access the property. He confirmed Barbara's testimony that a driveway connected the farmhouse to Base Road. After his grandmother moved out of the home following the passing of his grandfather, Henry's father, Franklin, took care of the property and rented it out to other families. He testified that the buildings and farmhouse would have been demolished in the 1980s as a result of the tenants' neglect in caring for the buildings. He confirmed that Ralph Sauerhaege was the tenant farmer, as testified to by Barbara. To his knowledge, his father, grandfather, Carl Kehr, and Ralph Sauerhaege were the only individuals who farmed the Broeckling farm and the farming was done continuously on an annual basis. They always farmed the disputed property believing it was part of their property.

¶ 22 Following the trial, the plaintiffs filed a motion for leave to amend their complaint to add a claim of prescriptive easement. The defendants subsequently filed an objection to

the plaintiffs' request for leave to amend. On January 7, 2019, the court entered an order which denied the plaintiffs' request to amend their complaint. The order also found that the plaintiffs had met their burdens on the issues related to their claim of adverse possession and awarded the 1.16 acres of land to the plaintiffs with the western boundary being the edge of Base Road. Following the court's order, the defendants filed a notice of appeal, and the plaintiffs filed a notice of cross-appeal.

¶ 23 ANALYSIS

¶ 24 Standard of Review

¶ 25 One claiming title to real property by adverse possession has the burden of establishing by clear and unequivocal evidence that possession of the property was (1) continuous, (2) hostile or adverse, (3) actual, (4) open, notorious, and exclusive, and (5) under a claim of title adverse to the actual owner, for the 20-year statutory period. 735 ILCS 5/13-101 (West 2016). It is well established that all presumptions in adverse possession claims are in favor of the title owner. *Sierens v. Frankenreider*, 259 Ill. App. 3d 293, 296 (1994). "An appellate court will not overturn a trial court's finding regarding the elements of adverse possession unless such finding was against the manifest weight of the evidence." *Id.* A court's decision will only be found to be against the manifest weight of the evidence if, when viewing the ruling in the light most favorable to the prevailing party, an opposite conclusion is apparent or the court's findings are unreasonable, arbitrary, or not based on the evidence presented. *Bogner v. Villiger*, 343 Ill. App. 3d 264, 269 (2003). Further, a reviewing court may affirm on any basis supported by the record. *In re Marriage of Gary*, 384 Ill. App. 3d 979, 987 (2008).

¶ 26 The first issue raised by the defendants is that the plaintiffs, for the period of their ownership, failed to prove they fulfilled the elements of adverse possession. The defendants claim that the plaintiffs presented evidence focusing "almost exclusively" on the use of the disputed property by the plaintiffs' predecessors, the Broecklings, and failed to establish that the plaintiffs, themselves, satisfied each element of adverse possession.

¶ 27 The defendants' argument appears to be based upon a mistaken understanding of adverse possession law in Illinois. The defendants' argument assumes that the plaintiffs, the Oelzes, must have also established all the elements of adverse possession in order to be successful in their action to quiet title. This assumption is incorrect. It is well established that:

> "[o]nce the statutory period has run, the record owner is divested of title. [Citation.] The holder by adverse possession obtains title which can be divested only by the conveyance of the land to another or by a subsequent disseisin for the statutory period. [Citation.] Moreover, the requisite period of adverse possession need not occur immediately before the claimant files suit." *Knauf v. Ryan*, 338 Ill. App. 3d 265, 271 (2003).

Thus, unless the plaintiffs needed to tack the time they held possession of the property in order to fulfill the 20-year required period, whether they, themselves, fulfilled the elements of adverse possession is not relevant, as along as the conveyance of the adversely possessed property is not at issue. Here, the trial court's order does note the actions of the plaintiffs' predecessors finding that the plaintiffs' predecessors occupied the land for "well in excess of the 20-years" required. Thus, because the trial court found that the plaintiffs'

predecessors showed they held title to the property adversely, and it is not disputed that there was an intent to convey the adversely possessed property to the plaintiffs (through the quit claim deed) nor that the possession was successive, the plaintiffs do not have to prove they fulfilled all the necessary requirements during their ownership of the property. *Id*.; *Bakutis v. Schramm*, 114 Ill. App. 3d 237, 239 (1983); *Hermes v. Fischer*, 226 Ill. App. 3d 820, 826 (1992).

¶ 28 The above analysis also disposes of defendants' argument that the plaintiffs failed to establish they had exclusive possession of the disputed property because the defendants had the property surveyed and had PVC posts and steel pins placed to mark the boundary of the property in 2014. The defendants argue that the placing of these markers put the plaintiffs on notice of their claim and disrupted the plaintiffs from successfully occupying the property. An examination into whether the plaintiffs satisfied the adverse possession elements is not necessary given the trial court's findings, and our agreement with those findings, relating to possession by the plaintiffs' predecessors exceeding the required 20 years. Nevertheless, assuming *arguendo* such an examination is necessary, we find the plaintiffs satisfied the elements. After taking ownership of the Broeckling farm, the plaintiffs continued to farm said property, ignoring the PVC markers and farming around them in the same manner as exhibited by the Broeckling family, without interference or objection from the defendants. The placing of PVC posts and steel pins is the only action offered by defendants as a reason for a finding that the requirements were not met. However, as previously held by other Illinois courts, notice of a land survey and its results or the placing of survey pins or boundary markers does not constitute possession so as to

defeat the exclusivity requirement of an adjoining landowner's adverse possession claim. *Cobb v. Nagele*, 242 Ill. App. 3d 975, 977-79 (3d Dist. 1993); *Davidson v. Perry*, 386 Ill. App. 3d 821 (4th Dist. 2008); see also *White v. Harris*, 206 Ill. 584 (1903). The trial court also addressed this particular argument in its January 7, 2019, order.[2]

¶ 29 Second, the defendants argue that the evidence presented does not support a finding that any use of the disputed property by the plaintiffs or their predecessors was hostile or adverse. The defendants argue three points regarding this issue: (1) that there was no evidence of hostility because the disputed property was unoccupied and unenclosed; (2) that permission was given to the plaintiffs' predecessors to farm the disputed property; and (3) there was no evidence of subjective intent of ownership of the disputed property by the plaintiffs' predecessors.

¶ 30 The defendants argue that the use of vacant and unenclosed land is presumed to be permissive and not adverse and cannot ripen into prescriptive right, whatever length of time such use is enjoyed. *Mann v. LaSalle National Bank*, 205 Ill. App. 3d 304, 310 (1990). The defendants' position is that because the land was not fenced, but was "unenclosed" and "vacant," the mere farming of the property by tenant farmers is not sufficient to overcome

[2] The trial court's order stated:

> Additionally, Defendants claim that the 2014 survey which established the boundary lines of the properties supports their claim that the use by Plaintiffs has been not exclusive. Defendants offer no other evidence as to their use of the land. The court finds that *Davidson v. Perry*, 386 Ill. App. 3d 821 (4th Dist. 2008) (cited in error by Plaintiff as *Perry v. Davidson*) is controlling in this case. The court finds that the mere setting of pins or even taller markers does not establish a permissive or non-exclusive use. The court finds that the farming activities of the Plaintiffs and their predecessors in interest were open, notorious and exclusive.

the presumption of "permissive use." In support of their position, the defendants rely on *Morris v. Humphrey*, 146 Ill. App. 3d 612 (1986), which they claim is "directly on point."

¶ 31 In that case, Dunbar (Morris's property predecessor) and Humphrey were adjacent property owners whose property was separated by a fence placed by the Humphreys. *Id.* at 614. In year 17 of the adverse possession statutory period, Dunbar removed the fence. *Id*. However, Humphrey continued farming the disputed property. *Id*. Morris filed an action to quite title and Humphrey defended the action claiming right to the disputed property based upon adverse possession. *Id.* at 613. The trial court found in favor of Humphrey. *Id.* However, the appellate court reversed the trial court's decision, finding that the Humphrey's farming of the disputed land alone following the removal of the fence was insufficient to establish adverse possession over the presumption of permissive use which was revived by Dunbar's action of removing the Humphreys' fence. *Id.* at 615-17.

¶ 32 Unlike the defendants, we do not find *Morris* to be "directly on point." The crucial difference between *Morris* and the present matter is that in *Morris* the title owner reasserted ownership by taking some type of action on the disputed property prior to the running of the 20-year statutory period. *Id*. Additionally, the only activity conducted on the disputed land by the adverse possessing party was farming. *Id*. Here, however, the evidence presented did not demonstrate that the defendants ever took any actions in an effort to interfere with the plaintiffs' use or control of the disputed property until 2014. Further, here, the evidence shows the plaintiffs, or their predecessors, did more on the disputed property than farming. There is evidence that the plaintiffs' predecessors constructed a

home, resided in that home, and constructed and used a driveway on the disputed property, in addition to farming. Therefore, *Morris* does little to guide our analysis in this matter.

¶ 33 We also find it inaccurate to describe the property as "unenclosed" and "vacant." While the disputed property was not fenced by the Broecklings or Oelzes, both Lester Surmeier and Ken Graul testified that until the 1990s there was a fence located on the MMH property on the western side of Base Road. Thus, there is evidence that defendants at one point placed a fence which marked what they believed to be the end of their property. Also, Base Road and the ditch create a natural border marker. These features separate the disputed tract from the MMH property and instead appear to group the property with the Broeckling farm. Finally, the evidence presented at trial demonstrates that for a period of approximately 60 years the land was used as a residence with parts of the residence being located on the disputed tract of land, along with the property being farmed continuously by the Broecklings or the plaintiffs since, at least, 1955. Thus, because the disputed property is not unenclosed and vacant, the defendants are not entitled to the presumption of permissive use.

¶ 34 Rather than *Morris*, this court finds *Sierens v. Frankenreider*, 259 Ill. App. 3d 293 (1994), to be instructive and factually more similar to the case at hand. In *Sierens*, a landowner brought action to quiet title to a strip of land fronting the adjacent property owner's homestead. *Id.* at 294. The adjacent property owner then counterclaimed arguing he had acquired the homestead strip and two other strips of land by adverse possession. *Id.* On appeal, the court found that where the adjacent owner's shed and driveway encroached on the disputed property, there was sufficient evidence to prove adverse possession by the

adjacent property's predecessors. *Id.* at 296-97. In addition, the continuous farming of two other strips of land for 50-60 years, along with the building and subsequent removal of a fence and the landowner's failure to vindicate his rights to the property, was sufficient for the court to find adverse possession. *Id.* at 297-99.

¶ 35 Here, there was evidence that the Broecklings built a home and other farm buildings, and constructed and maintained a driveway which were in existence on the property for approximately 60 years before being torn down. Further, since at least 1955 the disputed property has been farmed continuously by the plaintiffs, a member of the Broeckling family, or one of the hired tenant farmers. Finally, all the profits derived from the farming were kept by the Broecklings or split with their hired farmers. As discussed in *Sierens*, "[t]he acts necessary to accomplish adverse possession may vary depending on the nature and potential uses of the property, and cultivation may be a sufficient act of dominion for establishing ownership by adverse possession." 259 Ill. App. 3d at 297. In this matter, we have a family building a residence and living on the property in addition to the farming. Thus, the trial court's finding that the plaintiffs' predecessors fulfilled all the requirements necessary is not against the manifest weight of the evidence.

¶ 36 The defendants also claim that the plaintiffs failed to prove their occupation was adverse because they claim permission was given to the Broecklings to farm the disputed land. The only testimony regarding the issue was given by Richard McDonald, vice president of MMH. He testified that his father told him he gave the Broecklings permission to farm the property. However, he did not know the name of the person his father gave permission to or when, specifically, he gave the permission. Also, he testified that there

was no consent given for anyone to build any structures on the MMH property on the east side of Base Road. The trial court in its order noted Mr. McDonald's testimony regarding permission, and also noted the lack of specifics in his testimony. The trial court was unpersuaded by this secondhand testimony, and as a reviewing court, we will not disturb the trial court's determination of the credibility of witnesses because it has a superior vantage point which we cannot reproduce from a cold record. *Racky v. Belfor USA Group, Inc.*, 2017 IL App (1st) 153446, ¶ 107. Additionally, given that the defendants testified no permission was given regarding the building of the home and buildings, it is clear that at least some activity was done without permission.

¶ 37 The trial court in its order found, "that the [p]laintiffs' predecessors in interest believed that they had legal title to the disputed tract and treated it as their own ***." The defendants argue that this determination is contrary to the evidence presented and against the presumption of permissive use. They support their argument by stating, "[n]one of [the p]laintiffs' predecessors testified at trial, nor was there any evidence of their subjective belief that they had legal title to the Disputed Land." This statement by the defendants is patently false. Both Barbara Surmeier and Henry Broeckling, who were predecessors, testified in the trial through their evidence depositions, and both testified that they believed the disputed property belonged to their family and treated it as so. Further, the defendants' own tenant farmer, Ken Graul, testified that he also believed the MMH property ended at Base Road and that the disputed property belonged to the Broecklings. Thus, the defendants' argument on this point is mistaken at best and deceptive at worst. The trial court clearly had sufficient evidence to make the finding it did.

¶ 38 Finally, the defendants argue that even if this court finds the elements for adverse possession were met, the plaintiffs failed to establish the exact location of the boundary line to which the plaintiffs claim possession. It is true that "[a] party claiming adverse possession of a parcel of property has the burden of establishing the boundaries of such property with reasonable certainty." *Sierens*, 259 Ill. App. 3d at 297. "However, the possibility that [the adverse possessor] did not cultivate 'every square foot' of the property does not necessarily defeat his claim of adverse possession." *Id.* The defendants argue that because there was a ditch along the eastern side of Base Road and other portions which were not tillable, the plaintiffs are not able to establish boundaries for the tract of land. The trial court logically found the boundary to be that depicted in several exhibits used by both parties in the trial. Specifically, Base Road, which is easily identifiable and which witnesses testified they believe marked the boundary line for the properties, marked the western border. Further, Joseph Langhauser, a professional surveyor, was called by the plaintiffs and testified to the boundaries of the disputed property. As noted above, one does not have to cultivate every square foot to adversely possess a piece of property. Thus, there is sufficient evidence to find that the plaintiffs demonstrated the location of the disputed property boundary lines.

¶ 39 CONCLUSION

¶ 40 For the reasons stated above, the trial court had sufficient evidence to find that the plaintiffs and their predecessors met the requirements of adverse possession and that definitive boundary lines were proven for the disputed property. Therefore, the trial court's

findings were not against the manifest weight of the evidence and we hereby affirm the trial court's findings.

¶ 41 Because we have affirmed the trial court's findings, the plaintiffs' cross-appeal is moot and need not to be addressed.

¶ 42 Affirmed.