

St. Regis Mohawk Tribal Court

Audrey Ransom,)	
Appellant)	DECISION AND ORDER
)	
-V-)	Case No.: 10-LND-00002
)	
Jean Jacobs,)	
Appellee)	

PROCEDURAL HISTORY

Audrey Ransom on behalf of herself and her husband Gordon Ransom, filed an appeal of a St. Regis Mohawk Tribal Council decision dated July 8, 2009 in St. Regis Mohawk Tribal Court on March 26, 2010.

Following the filing of the appeal with the Court, a twenty day civil summons was issued on May 10, 2010 that was to be served upon the Respondent, Ms. Jean Jacobs, along with a copy of the complaint.

On May 20, 2010 a proof of service was filed with the Court showing that the civil summons and the complaint were served upon the Respondent, Ms. Jean Jacobs.

The Court received the defendant's answer from Ms. Jean Jacobs on June 9, 2010 which was filed in the record.

Following multiple pre-trial conferences held in St. Regis Mohawk Tribal Court with no resolution occurring, the Court began its own fact finding to help assist in brining this matter to a decision. This resulted in the first preliminary decision on this matter on June 17, 2014.

In efforts to bring this matter to a resolution, on January 10-13, 2016 the SRMT Court retrieved documents from the National Archives in New York City relating to the land that is in dispute in this matter.¹

DISCUSSION

The case at bar is one which the Court found to be extremely time consuming due to the fact that the St. Lawrence Seaway Development Project had such a large effect on the land that is in dispute in this matter. The discovery by the Court through many hours of research illustrate the true extent of the impact the Seaway had on the residents of this area of the St. Regis Mohawk Indian Reservation (hereinafter SRMIR). The St. Lawrence Seaway Development Project and the subsequent lawsuits which followed, do in fact still have an effect on current occupants of the land that is the subject of this dispute today.

In determining the size and boundaries of the parcels of land in dispute between the parties, we first looked to the lawsuit which led to a "fight" over the monetary

¹ The documents at the U.S. National Archives were part of an effort to obtain documents associated with the litigation involving the St. Lawrence Seaway and the party's property of this dispute. This litigation was in the NDNY Court, and resulted in multiple decisions by that Court. It was that Court which identified where the records of these cases can be located.

compensation that was going to be paid to the people whose land was used for the benefit of the construction of the St. Lawrence Seaway.

As discussed in a prior decision of this Court (dated June 17, 2014), Lis Pendens notices were filed in Franklin County when the Seaway project was given the go ahead, and the Lis Pendens Notices named the persons whose land was needed to be used in the process of constructing the Seaway. While the use of the land was never objected to in any Court by the individuals or the SRMT, when news came that there would be compensation paid for the use of the land, litigants then lined up to make a claim for that money.

As the Court has discussed in the June 2014 decision, the estate of Catherine Peters White, which contains the land in dispute in this matter, was one of the claimants for the monetary compensation to be paid out by the Seaway. The issue which the Court must now determine is the correct size of the parcels in question, and the location of the boundaries between these properties.

As we have mentioned, documents were located in the National Archives in New York City which have finally given the Court enough factual information to make a factually based determination on boundaries and determine the actual size of the properties in this dispute. This in itself was a long process which the Court, while regretful that it was such a long waiting period, is confident that these long lost court documents do in fact provide incredibly helpful insights about the Catherine Peters White estate property.

In our previous decision in this matter the Court posited that the estimated size of the Catherine Peters White estate property was 24 acres. Following a careful review of the newly discovered documents from the lawsuit in Federal District Court regarding the determination of monetary compensation for the using of the land by the Seaway, we find that adjustments need to be made to our prior decision about the property size and the distribution thereof.

Federal District Court Judge Stephen Brennan's unpublished decision dated March 17, 1960 states that the **ENTIRE** property that was contained within the Catherine Peters White estate consisted of 14 acres. *See*, Decision March 17, 1960. Further, in this decision it is determined by the Federal District Court that Louise White, the widow of Lawrence White, should be compensated for the value of **9.35** acres. The Federal Court came to this determination based on the fact that Lawrence White was the occupier of the land that was used by the Seaway project. In his decision Judge Brennan noted that it was Lawrence White whose house was destroyed by the Seaway project and that it was he who cultivated various berry fields, which supplied him and his wife Louise with a living.

In fact Judge Brennan is quite specific that the 9.35 acre portion of the Catherine Peters White estate was not occupied by Lawrence White's brothers Mose and Jack White as evidenced by this excerpt, "Jack White occupied a part of the area not involved in this taking. Mose White built a dwelling house, barn etc., also on a part of the land not taken and occupied same since 1937." *Id.* It is clear to the Court that while Mose and Jack White did indeed occupy a portion of the Catherine Peters White estate, they did not appear to be living or occupying any portion of the 9.35 acres which the Seaway used in the construction of the Seaway project. This is made more evident by the fact that Judge Brennan decided to compensate Louise White (widow of Lawrence White), for the amount of \$7,370.25 for 9.35 acres. This took into account the loss of her home and the berry fields that were cultivated by her husband Lawrence to earn a living which were destroyed by the Seaway project. Mose White in comparison only received \$1,461 and Jack White

\$1,093.50.² This again is due to the fact that Mose and Jack did not occupy portions of the Catherine Peters White estate which were used by the St. Lawrence Seaway Development Project.

While a more accurate depiction of the size of the parcel is made clearer by reading the Federal District Court decision, the Court must also discuss how Judge Brennan came to determine who the proper distributees of the money paid out by the Seaway to the heirs of the Catherine Peters White estate were.

A dispute had arisen between the various potential heirs of Catherine Peters White (Mose White, Jack White, and the widow of Lawrence White, Louise Jackson White) as to who in fact were the rightful beneficiaries of the money that was to be paid by the Seaway for the use of the land contained within the Catherine Peters White estate. While Judge Brennan had already made determinations identifying the proper persons who would receive monetary payments from the Seaway for the use of their property, the beneficiaries of the Catherine Peters White estate were made to wait until a determination was made by the Franklin County Surrogate Court, as to who the proper heirs of the Catherine Peters White estate were.

In the record of the many proceedings in front of Judge Brennan it is clear that the parties involved in the Catherine Peters White estate had agreed, and presented to Judge Brennan, that they would present the beneficiary issue to the Franklin County Surrogate Court.³

On December 14, 1959 Judge Ellsworth Lawrence of the Franklin County Surrogate Court determined that the proper heirs of the Catherine Peters White estate were: Mose White (son), Jack White (son), and Louise White (widow of Lawrence, her son). In Judge Ellsworth's decision, he ordered that the estate of Catherine Peters White be divided equally into thirds by the heirs he had declared as the beneficiaries of the estate of Catherine Peters White. *See*, June 17, 2014 Decision.

At first appearance, it seems that the decision rendered by Federal District Court Judge Stephen Brennan is clearly in contradiction of the Franklin County Surrogate Court decision in the estate of Catherine Peters White, particularly as the distribution of money is not done by equal thirds to each of the rightful heirs named in the surrogate decision. The Court notes however that Judge Ellsworth Lawrence issued an amended decree in the estate of Catherine Peters White, in which he orders that, "Louise White, by her committee Sarah Ransom, is to receive any and all monies as determined by the Court for any improvements listed in the "Taking Area" on page 3 of the U.S. government appraisal." *See*, Amended Decree December 14, 1959. This would be for the 9.35 acres.

It is through the review of the Franklin County Surrogate Court decision and the Federal District Court decision and record that this Court found assistance in determining

² We note that in the numerous documents that were retrieved regarding this matter, the compensation paid was a fraction of what was paid to non-native persons located in New York who also had their property used by the St. Lawrence Seaway Project. *See*, ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION VS 2.6 ACRES MORE OR LESS, SITUATE IN THE TOWN OF MASSENA, COUNTY OF ST. LAWRENCE, STATE OF NEW YORK AND EUGENE SHARLOW, et al, Civil No. 6684 dated October 23, 1961.

³ Although this use of the Franklin County Surrogate Court is questionable under principles of Federal Indian Law and the customs of the SRMT, it appears that the SRMT as a party to the compensation litigation in front of Judge Brennan helped prompt this move. Furthermore, in the transcript of an appearance before Judge Brennan it is clear that attorney's for each of the parties (Mose White, Jack White, Louise Jackson White) had agreed and presented to the judge that an action in Franklin County Surrogate Court was going to be initiated.

the size of the Catherine Peters White property was 14 acres, and that Louise Jackson White, by virtue of her husband, decedent Lawrence White, was determined as owning 9.35 acres. Sarah Ransom, as committee for her sister Louise White, was therefore authorized to sell Louise White's interest in the land comprising 9.35 acres, which she received as the widow of Lawrence White, to Gordon and Audrey Ransom on May 7, 1967. (*See*, SRMT Record May 7, 1967.)

Based upon the foregoing, we amend our prior decision and now find that the size of the Catherine Peters White parcel was in fact +/- 14 acres and that the Lawrence White/Louise Jackson White parcel was 9.35 acres.

We must also find that the size of the parcel purchased by Audrey and Gordon Ransom from Louise White is 9.35 acres. This finding is supported by Judge Stephen Brennan's decision dated March 17, 1960. It is clear to the Court that the Appellant's claim to own from the "the river to the road" is erroneous. The Appellant purchased Louise White's interest in the Catherine Peters White estate property which was inherited through her husband's (Lawrence White) interest as a beneficiary to the estate. While the Court understands that throughout the years there have been a myriad of puzzles regarding the true dimensions of the land in question, it is clear upon our close examination of the facts now known that it is an impossibility for the Appellant to own more than 9.35 acres, or in their words, from "the river to the road". *See*, 10-LND-00005 *Point v Peters*, 12-LND-00004 *Sawyer v Laughing*, (a buyer is limited to what a seller can only lawfully sell, or as we described, "one can only sell what one owns." *Id*)

In addition to the foregoing information contained in the National Archives, we also discovered that various property owners (e.g. James Thompson Jr., Abraham Loran, and the Catherine Peters White Estate) were noted as possessing various lengths of river frontage. These included 310' of river frontage for James Thompson Jr. (which began at the reservation boundary), 590' for the Catherine Peters White Estate, and 2,160' for Abraham Loran. *See*, United States Northern District Court Decision March 17, 1960.

Next, as we are also aware that the person whose property is technically at the end of the reservation is James Thompson Jr., therefore from that point we move northerly 310' to the boundary of the Catherine Peters White estate, which was found by the Federal District Court to be the portion of property rightfully owned by Louise White via her benefit from her late husband Lawrence White. It is at this point we move 590' on the river frontage to reach the northern boundary point of the Catherine Peters White estate, now owned by the Appellant. *See*, Attachment 1, marked as points A-F.

It is at this point that the Court must make a determination on the boundary points for the parcel of property of the Appellant. As the Court has already discussed, the portion of property the Appellant purchased cannot be more than 9.35 acres, as the Federal District Court determined that to be the size of the parcel which Louise White, as the sole beneficiary to Lawrence White's interest in the estate of the Catherine Peters White estate possessed.

Next, in the record of this case, and as we discussed in our prior decision, on May 28, 1971 Gordon Ransom and Loran Thompson by agreement caused to be constructed a road to the properties that they own. This road/line would then intersect at the point we described above (310' of river frontage from the reservation boundary along the river). It is in this manner we can determine with certainty at least 2 boundary lines, of the Catherine Peters White/Louise Jackson White property.

In determining the remaining boundary lines for the Appellant's property the Court will use the principle of equity. For the purposes of the case at bar we have noted already that the size of the Appellant's property cannot exceed 9.35 acres. In the matter at bar we also know the Appellant has claimed the Appellee is occupying property which they believe was rightfully theirs via their purchase from Louise Jackson White in 1967. The Court has determined however, due to the fact that the Appellant can own no more than 9.35 acres and there is nothing that would allow the Appellant to claim ownership from "the river to the road". Therefore, we will now use equity to assist us in reaching a determination of the Appellant's remaining boundaries, and to resolve the issue of the alleged invasion of the Appellant's property by the Appellee. In *13-LND-00011 Thompson v Terrance* we decided that transferring ownership of a very large building which was built at great cost to the Appellee, was not equitable due to the fact that the Appellant was never noticed that there were land dispute proceedings occurring with the SRMT, and that the SRMT Tribal Council had made a decision on the land dispute regarding property the Appellant had always believed to be owned by him, while denying the Appellant his due process rights. In *12-LND-00002 Sawatis v Cook* we decided to keep the Appellant's ownership interest intact as he had built a home and garage on the property, and the division of the property from his parent's estate was done without a will from the Appellant's father, and that the supposed agreement on the division of the property was done without the consent of ALL of the beneficiaries of the estate the property originated from. Likewise, in *15-LND-00002 Garrow v Garrow* we decided that due to many years of prior owners of the property having no dispute over the boundaries of the parcels in dispute the equitable decision was to reapportion the property of the Appellant so that instead of forcing the Appellant to pay the Appellee a large sum of money for the alleged trespass of the Appellants home and garage onto the Appellee's property, the Court subtracted a portion of the Appellant's property which didn't affect the standing house and garage from the southern portion of the property, and transferred that portion to the Appellee so that he could recover the portion "lost" due to the Appellee's alleged trespass onto his property via the house and garage structure. *See also, 11-LND-00010 Roundpoint v Chubb*. Therefore, the idea of making an equitable (fair) decision on land dispute cases has been utilized by the Court.

This case has similarities which the Court notes and which we find makes the use of equity in this matter prudent. It is our finding that in the interest of equity, the Appellant's property boundary will stop at a point before the property the Appellee.⁴ It is the view of the Court that the principles of equity require the Court to ensure that the Appellee will not be divested of her interest in property which she has occupied for many years, and we must do this task while at the same time ensuring that the Appellant receives the 9.35 acres that we have determined they rightfully own. *See, 13-LND-00011 Thompson v Terrance, 12-LND-00002 Sawatis v Cook, 15-LND-00002 Garrow v Garrow.*

Further buttressing our determination to decide this matter using equitable principles is that the Appellant's ownership documents/evidence clearly includes the language that, "boundaries and measurements shall be added to this instrument". *See, May 7, 1967 Sale Agreement*. This indicates to us that there was a lack of clarity with respect to the parcel of property. Furthermore, it is clear from the record of this case that the SRMT has taken actions/decisions which, although closer in time to the Federal Court decisions, are clearly contrary to that Court's determinations which were made when the parties were present and with legal counsel. This includes the subsequent actions taken by Kenneth White in the year 1969 selling property to Leslie Thompson and the actions of Jack White's widow. *See, September 9, 1989 SRMT Use and Occupancy Deed from Elizabeth*

⁴ We render no opinion as to the ownership of Appellee over this portion of property, as this case requires us to decide the Appellant's claim of ownership.

Jacobs White to James White. Based upon these factors it is clear that the Court has been called upon to wade into rather turbulent and murky waters. It is for these reasons, coupled with our prior holdings, we determine to employ equitable means to resolve the dispute.

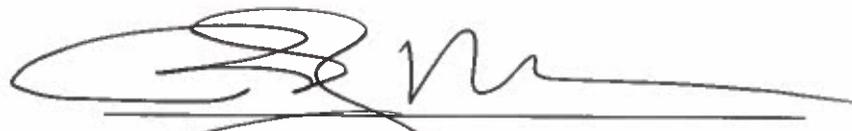
Therefore with respect to the other 2 boundaries we may begin at the river frontage 590' from the 310' marker of the James Thompson Jr. river frontage marker. We have taken this point and in drawing a straight line from that point to what is commonly called the 'White Road'⁵. We do this to arrive at a parcel estimated to be +/- 14 acres. Within this parcel we must then create a parcel which ensures that Appellant has 9.35 acres, but does not disturb Appellee's possession.

Therefore, we have determined that the Appellant's boundary line will have a point of beginning at the initial point A indicated on attachment 1 of the river frontage for the former Catherine Peters White estate property, and move in an easterly direction for 621 feet, stopping at point B **BEFORE** the Appellee's property. This will then run north adjacent along the property of the Appellee for a distance of 232 feet to Point C. Then, the Appellant's boundary line will run in an easterly direction for 125 feet to Point D. The line will then run in a northeasterly direction for 268 feet to Point E. The Appellant's line will then run in a westerly direction for 877 feet back to the river at Point F. At Point F the line will run in a southerly direction 590 feet back to the point of beginning, Point A. *See*, Attachment 1.

The Court's determination of the Appellant's boundary lines will serve as a means to give closure to the location of boundaries between the properties owned by the Appellant and the Appellee, respectively. In setting these lines the Court has ensured that the Appellant is vested with their full interest in the 9.35 acres of property they purchased from Louise Jackson White, and that the Appellee is not deprived of her ownership and occupation of property. The Court would like to note however, that we make no determinations as to the various other transactions that have occurred over the years within the boundaries of the former Catherine Peters White estate.

This constitutes the decision and order of the Court.

Signed by my hand this ^{ETH} 2 day of March 20 16



Peter J. Herne, Chief Judge St. Regis Mohawk Tribal Court



⁵ We believe that this prior road may have been used jointly by Joseph and Catherine Peters White as well as Abraham Loran.

Attachment

1

