

Saint Regis Mohawk Tribal Court

**Irene Cook,
Complainant**

Case No.: 16-CIV-00010

-V-

DECISION AND ORDER

**Deborah Cook,
Respondent**

Procedural History

On August 19, 2016 the Complainant, Irene Cook, filed a complaint in Saint Regis Mohawk Tribal Court against the Respondent, Deborah Cook, requesting monetary relief in the amount of \$2,000.

The Complainant filed proof that the complaint and summons was served upon the Respondent in person on August 22, 2016.

The Court received an answer to the complaint by the Respondent in this matter on September 6, 2016.

A pre-trial conferences were held in Saint Regis Mohawk Tribal Court for this matter on October 4, 2016. All notices were served by the Court via certified mail return receipt. Both parties were in attendance for the conference.

A trial was held on January 10, 2017 in Saint Regis Mohawk Tribal Court. Both parties were in attendance for the proceeding.

Factual Findings

The Complainant, Irene Cook, bears the burden of proof by preponderance of evidence.¹ Preponderance of the evidence is met “by providing superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other.”²

The Court finds the following facts were proven by a preponderance of the evidence.

1. On or about August 2008 the parties entered into an oral agreement regarding a land purchase within the Saint Regis Indian Reservation.

¹ SRMT Rules of Civil Procedure, Rule 17 (A) – (B).

² *Id.* at Rule 17(B).

2. The oral agreement involved land that is located at Mose Cook Road located within the Saint Regis Indian Reservation.
3. On August 12, 2008 the Complainant paid the Respondent \$2,000, in cash, as a down payment for the land.
4. The Respondent paid Haynes and Smith Associates in the amount of \$1,410.00 for a survey of the land that was conducted on September 28, 2008.
5. On September 8, 2008 the Respondent paid Chad Garrow \$750.00 for the excavation of a ditch to help drain water from the land.

Legal Conclusions

In order to address the merits of the action, it must be first determined that the Court possesses jurisdiction over this matter. The standard put forth by Mohawk laws that define this Court's jurisdiction in civil matters are articulated in the SRMT Civil Code Section II. The SRMT Civil Code Section II states in relevant part that "[t]he Tribal Court shall have civil jurisdiction over civil disputes . . . [d]isputes involving contracts (i) are negotiated, executed, or performed in Mohawk Indian Country, or (ii) whose subject matter substantially involves Mohawk Indian Country."³

In regards to the case at bar, the dispute at issue involves an agreement that was negotiated by the parties within Mohawk Indian Country. Furthermore the agreement at issue was for the sale of land. Pursuant to Mohawk law and the Court's precedent, a contract involving land within the Saint Regis Indian Reservation is a subject matter that substantially involves Mohawk Indian Country. The foregoing reasons establish that this Court possesses jurisdiction over this matter.

At issue in this case is the down payment in the amount of \$2,000 paid in full by the Complainant to the Respondent for a parcel of land located at Mose Cook Road within the Saint Regis Indian Reservation. The Complainant alleges the land did not conform to what she was intending to purchase and, therefore, she should receive her down payment back in full.

The Respondent admits that she spent the down payment at issue for a surveyor to conduct a survey of the land, services to excavate a ditch to help drain the water from the property and her own personal bills and expenses. The Complainant alleges that she was not given notice of the survey and ditch expenditures. The Respondent contends there was not an oral contract and, therefore, there is not a legal remedy requiring a refund of the down payment. The Respondent further contends that the agreement entered into between the parties was entered into eight years ago and should be barred by a statute of limitations.

As a threshold matter, the Court must determine whether the cause of action is barred by a statute of limitations. The argument raised by the Respondent invokes Rule 5 of the SRMT Rules of Civil Procedure, which provides in relevant part: "[a] civil lawsuit filed in Tribal Court must be started: (1.) In the case of torts and oral contracts, and actions not otherwise provided for herein,

³ SRMT Civil Code § 2 (B).

within three (3) years.”⁴ Furthermore the time which a lawsuit must be filed is from the date on which the injury the injury or breach was first known or should have been known.⁵

In the case at bar, the parties entered into an agreement on or about August 2008 and the down payment at issue was paid in full on August 12, 2008. Pursuant to the SRMT Rules of Civil Procedure, claims brought forth that stem from an oral contract are deemed to accrue on the date when the injury was sustained or a reasonable person would have known of a breach. Here, the Complainant filed the case on August 19, 2016. In accordance with the SRMT Rules of Civil Procedure, the Complainant had three years from the date the parties entered into the oral agreement in August 2008 or when the Complainant “knew or should have known” of a breach of the terms set forth in the oral agreement to initiate an action in this Court. The remedy requested by the Complainant only exists during the prescribed period as set forth by the SRMT Civil Code and not thereafter. Thus, the Court finds the Complainant’s action is barred by a statute of limitation.

Since the claim does not satisfy the prescribed time limitation, the Court need not address the merits of the arguments put forth by the Complainant.

Conclusion

Therefore, it is **ORDERED** that the Complainant’s request for monetary relief in the amount of \$2,000 is hereby **DENIED**.

Signed by my hand this 24th day of January, 2017.



Carrie E. Garrow
Chief Judge
Saint Regis Mohawk Tribal Court

The parties have 30 days from the entry of this Order to file an appeal with the Saint Regis Mohawk Court of Appeals.

⁴ SRMT Rules of Civil Procedure, § VIII Rule 5 (A)(1).

⁵ *Id.* at § VIII Rule 5 (B).