

ANALYSIS

On September 11, 1986, [REDACTED] Cole transferred their rights to Lot # [REDACTED] to the Saint Regis Mohawk Tribe/Akwesasne Housing Authority. The land was to be returned to the Cole's upon their satisfactory repayment of an Akwesasne Housing Authority loan.

There is no deed in [REDACTED] Cole's land files with the Saint Regis Mohawk Tribal Clerk deeding the land back to [REDACTED]. However, there is a letter dated February 20, 2003, from the Saint Regis Mohawk Tribal Clerk, Patricia Thomas. The letter states that [REDACTED] Cole are the owners of a home and property identified as Lot # [REDACTED]. The Court assumes this is a typo, as all other references to their lot refer to it as Lot # [REDACTED]. There are also two faxes in their land files from the Tribal Clerk's Office requesting that the deed be signed. It is unknown why the deed was not signed. [REDACTED] Cole confirmed in Court that the HUD loan had been completely repaid.

Thus, the Court finds that [REDACTED] Cole owned Lot # [REDACTED] and the attached home, as her husband predeceased her and the HUD loan was repaid. Therefore, the real property and home attached are part of her Estate. [REDACTED] Cole's Will bequeathed the lot and the attached home to [REDACTED] Cole. The Court has found the Will valid, thus pursuant to the terms, he is now the owner of Lot # [REDACTED] and the attached home.

The agreement submitted by [REDACTED] Cole and [REDACTED] states that [REDACTED] is the recipient of the contents in the residence, which will be divided by her husband and children upon her death. The agreement also states that [REDACTED] is allowed to freely occupy the residency for the duration of her life and is signed by both parties and notarized. The agreement allows for [REDACTED] to live in the home for the duration of her life. This is called a life estate. Legally, it means that [REDACTED] Cole owns the property, but is giving [REDACTED] the right to live there until the end of her life. She cannot sell the property, as that right only belongs to the owner. She also cannot make changes to the property with the consent of the owner. But she can reside there and fully enjoy it throughout the duration of her life. Thus, based upon the signed and notarized agreement, the Court finds [REDACTED] has a life estate in Lot # [REDACTED] and the attached house.

ORDER

It is hereby ADJUDGED that the #Lot 38 and the attached home belongs to [REDACTED] Cole and that [REDACTED] has a life estate in Lot # [REDACTED] and the attached home.

It is hereby ORDERED that [REDACTED] Cole seek a deed from the Saint Regis Mohawk Tribal Clerk's Office for the Lot # [REDACTED].

In addition to the standard language contained in a Saint Regis Mohawk Tribe's Right to Use and Occupancy Deed, the deed shall include the following language: [REDACTED] shall have a life estate in Lot # [REDACTED] and the attached home.

Upon receipt of a copy of the Deed, the Court shall release [REDACTED] Cole as Executor and close the Estate.

Signed by my hand this 23rd day of April, 2018.



Carrie E. Garrow, Chief Judge
Saint Regis Mohawk Tribal Court

The parties have thirty (30) days from entry of this order to file an appeal with the Saint Regis Mohawk Tribal Appellate Court.