

SUPREME JUDICIAL COURT OF MAINE

James N. Levis v. Gustav Konitzky

2016 ME 167 (2016) · No. Lin-15-274 · Decided November 17, 2016

SUMMARY

The Maine Supreme Judicial Court affirmed summary judgment in favor of Gustav Konitzky in James Levis’s adverse possession and quiet title action involving an intertidal mudflat. The court held that the trial court did not abuse its discretion in vacating a default judgment, allowing Konitzky to file a late summary judgment motion, or denying Levis’s later motions for default. It also concluded that Levis’s use of the intertidal area did not establish adverse possession or title under deed, and that his possession was not sufficiently exclusive to support quiet title relief.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Humphrey, J.; Saufley, C.J.; Alexander, J.; Mead, J.; Gorman, J.; Jabar, J.
JURISDICTION	Maine
DECIDED	November 17, 2016
DOCKET	Lin-15-274
DISPOSITION	affirmed
PROCEDURAL POSTURE	Levis appealed from a final summary judgment entered by the Maine District Court in favor of Konitzky in an adverse-possession and quiet-title action, as well as from orders concerning default judgments and leave to file a late summary-judgment motion.
STANDARD OF REVIEW	The allowance of a late-filed summary-judgment motion and the denial of a default judgment are reviewed for abuse of discretion. The grant of summary judgment is reviewed de novo, viewing the evidence and reasonable inferences in the light most favorable to the nonmoving party.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	James N. Levis v. Gustav Konitzky

TOPICS

adverse possession

quiet title

summary judgment

default judgment

appellate procedure

PRACTICE AREAS

real estate

civil procedure

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether the District Court abused its discretion by allowing Konitzky to file a late motion for summary judgment without a showing of excusable neglect.
2. Whether summary judgment was proper on Levis's adverse-possession claim concerning the intertidal mudflat.
3. Whether summary judgment was proper on Levis's claim that he acquired title through his former wife's quitclaim deed.
4. Whether Levis established a prima facie entitlement to quiet-title relief despite Konitzky's admitted use of the property.
5. Whether the District Court abused its discretion by denying Levis's motions for default judgment against Konitzky and the Cartland heirs.

HOLDINGS

1. Under Maine Rule of Civil Procedure 56(b), a trial court has discretion to allow a late-filed motion for summary judgment without a showing of excusable neglect if the motion is filed within a time that will not delay trial. The court should consider whether the motion is intended to cause delay and whether allowing it will promote case management or create undue costs or prejudice.
2. Levis could not establish title to the intertidal mudflat by adverse possession because use of the intertidal zone for clamming and tying boats, even without Konitzky's interruption, is legally insufficient to establish adverse possession.
3. Levis did not establish a genuine issue of material fact that he owned the mudflat by virtue of his former wife's quitclaim deed.
4. Levis was not entitled to quiet-title relief because he failed to show uninterrupted, continuous, and exclusive possession for the four years preceding commencement of the action, and the quiet-title statute does not independently create title.
5. The District Court did not abuse its discretion by denying Levis's motions for default judgment. Konitzky's voluntary appearance as an assignee was timely under the court's extended deadline, and a default judgment against the Cartland heirs would have been inconsistent with the adjudication that Levis had no title to the property.

KEY QUOTATIONS

“We now clarify that, contrary to Levis’s contention, the trial court has discretion to allow a late-filed motion for summary judgment, even absent a showing of excusable neglect, if the request is made “within such time as not to delay the trial,” M.R. Civ. P. 56(b).” (¶17)

“To be clear, relief pursuant to the quiet title statute is only available if the plaintiff in such an action provides the legal basis for that title. The statute does not provide an independent basis for a claim of title.” (§24)

“Showing no title in themselves, the plaintiffs cannot prevail even if it turned out that the defendants had no title.” (§28)

FACTUAL BACKGROUND

Levis claimed title to an approximately 125-foot by 100-foot section of mudflat in Bristol through adverse possession and a quitclaim deed from his former wife. The last known record owner was J. Henry Cartland, and Levis acknowledged that no recorded conveyance transferred the mudflat from Cartland to his former wife or to another person. Konitzky, an abutting neighbor, had used the mudflat for clamming and boating since 2002, and Levis admitted that his possession therefore was not exclusive for the four years preceding the action. The District Court granted Konitzky summary judgment after determining that the undisputed facts defeated Levis's adverse-possession, deed-based title, and quiet-title claims.

PROCEDURAL HISTORY

Levis filed a declaratory-judgment and quiet-title complaint in 2009, claiming title to a mudflat by adverse possession and by quitclaim deed. The District Court initially entered a default judgment against the alleged Cartland heirs, later vacated that judgment after Konitzky located an alleged heir who conveyed an interest to him, and denied Levis's subsequent motions for default. The court allowed Konitzky to file a late motion for summary judgment and granted it, concluding that Levis could not establish adverse possession, title under the deed, or entitlement to quiet-title relief. An earlier appeal from the summary-judgment order was dismissed as interlocutory; after the court denied Levis's later default motion and all claims were adjudicated, Levis timely appealed. The Supreme Judicial Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Johnson v. Carleton, 2001 ME 12, ¶ 10, 765 A.2d 571
- Dalton v. Quinn, 2010 ME 120, ¶ 6, 8 A.3d 670
- Hutz v. Alden, 2011 ME 27, ¶¶ 19-22, 12 A.3d 1174
- Estate of Ruth E. O’Brien-Hamel, Estate of O’Brien-Hamel, 2014 ME 75, ¶¶ 22-24, 93 A.3d 689
- Dyer Goodall & Federle, LLC v. Proctor, 2007 ME 145, ¶¶ 17-22, 935 A.2d 1123
- Solomon's Rock Trust v. Davis, 675 A.2d 506, 508-09 (Me. 1996)
- Rodriguez v. Tomes, 610 A.2d 262, 264-65 (Me. 1992)
- Estate of Leavitt, 1999 ME 102, ¶¶ 3-7, 733 A.2d 348
- Gregory v. City of Calais, 2001 ME 82, ¶¶ 5-11, 771 A.2d 383
- Mancini v. Scott, 2000 ME 19, ¶¶ 7-8, 744 A.2d 1057

- *Sevigny v. City of Biddeford*, 344 A.2d 34, 38 (Me. 1975)
- *Camden National Bank v. Peterson*, 2008 ME 85, ¶¶ 15-19, 948 A.2d 1251
- *Lujan v. National Wildlife Federation*, 497 U.S. 871, 894-97 (1990)
- *Drippe v. Tobelinski*, 604 F.3d 778, 784-85 (3d Cir. 2010)
- *Yeoman v. Ikea U.S.A. W., Inc.*, No. 11cv701-WQH (BGS), 2014 U.S. Dist. LEXIS 37749, at *8-22 (S.D. Cal. Mar. 20, 2014)
- *Walker v. Durham*, No. 5:12-CT-3186-BO, 2014 U.S. Dist. LEXIS 133484, at *10-11 (E.D.N.C. Sept. 22, 2014)
- *Sewell v. Lincoln Life & Annuity Co.*, No. 11 Civ. 4236 (ALC)-8 (S.D.N.Y. Mar. 22, 2013)
- *Merrifield v. Hadlock*, 2009 ME 1, ¶ 6, 961 A.2d 1107
- *Curtis v. Porter*, 2001 ME 158, ¶ 7, 784 A.2d 18
- *Rancourt v. Waterville Osteopathic Hosp.*, 526 A.2d 1385, 1387-88 (Me. 1987)
- *Guardianship of Jo Ann L.*, 2004 ME 68, ¶ 11, 847 A.2d 415
- *Nader v. Maine Democratic Party*, 2012 ME 57, ¶ 30, 41 A.3d 551
- *Budge v. Town of Millinocket*, 2012 ME 122, ¶ 12, 55 A.3d 484
- *Estate of Cabatit v. Canders*, 2014 ME 133, ¶ 8, 105 A.3d 439
- *Corey v. Norman, Hanson & DeTroy*, 1999 ME 196, ¶ 9, 742 A.2d 933
- *Dombkowski v. Ferland*, 2006 ME 24, ¶ 10, 893 A.2d 599
- *Bell v. Town of Wells*, 557 A.2d 168, 173 (Me. 1989)
- *Dionne v. LeClerc*, 2006 ME 34, ¶ 11, 896 A.2d 923
- *Chickering v. Yates*, 420 A.2d 1219, 1223 (Me. 1980)
- *Millett v. Dumais*, 365 A.2d 1038, 1040 (Me. 1976)
- *McGrath v. Hills*, 662 A.2d 215, 217 (Me. 1995)