

SUPREME COURT OF WYOMING

Dave T. Helm and Van E. Helm v. Ken Clark, Trustee, or his
successor in trust, under the Ken Clark Living Trust dated March 28,
2006

Helm v. Clark, 244 P.3d 1052 (Wyo. 2010) · No. S-10-0002 · Decided December 21, 2010

SUMMARY

The Wyoming Supreme Court held that Ken Clark established adverse possession of property enclosed by a longstanding fence separating adjoining agricultural properties. The court affirmed the adverse-possession determination but reversed and remanded because the district court failed to provide an adequately supported legal description of the disputed property and needed to address the effect of relocating an adjoining fence.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Kite, Chief Justice; Kite, C.J.; Golden, J.; Hill, J.; Voigt, J.; Burke, J.
JURISDICTION	Wyoming
DECIDED	December 21, 2010
DOCKET	S-10-0002
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Helms brought an ejectment action concerning property between the recorded boundary and a longstanding fence. Clark counterclaimed for quiet title based on adverse possession. After a bench trial, the district court quieted title in Clark, and the Helms appealed.
STANDARD OF REVIEW	Factual findings after a bench trial are reviewed for clear error, with deference to the trial court's credibility determinations and without reweighing disputed evidence. Conclusions of law are reviewed de novo.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential.
PARTIES	Dave T. Helm, Van E. Helm v. Ken Clark, Trustee, or his successor in trust, under the Ken Clark Living Trust dated March 28, 2006

TOPICS

adverse possession

title disputes

quiet title

ejectment

appellate procedure

PRACTICE AREAS

real estate

property law

remedies

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QUESTIONS PRESENTED

1. Whether the district court clearly erred in finding that Clark established adverse possession despite evidence concerning the fence's location, continuity, alleged permissive use, payment of taxes, and later relocation of an eastern fence.
2. Whether Clark was collaterally estopped or judicially estopped from asserting that the Clark-Helm fence was a boundary fence because Clark's family had characterized a different Clark-Nebeker fence as a fence of convenience.
3. Whether the district court's determination of the exact size and location of the adversely possessed property was supported by the evidence and constituted an adequate legal description.

HOLDINGS

1. Clark established a prima facie case of adverse possession by showing long-term enclosure of the disputed area with his property, use of the area for grazing livestock, and the Helms' awareness of the discrepancy between the fence and the true boundary.
2. The district court did not clearly err in finding that the Clark-Helm fence was a boundary fence rather than a fence of convenience, and Clark's use was therefore not permissive.
3. The Clark family's admission that the separate Clark-Nebeker fence was a fence of convenience did not collaterally estop or judicially estop Clark from asserting that the Clark-Helm fence was a boundary fence.
4. The district court's adverse-possession determination was valid, but its description of the disputed tract was clearly erroneous and inadequate; the matter had to be remanded for determination of the property's exact legal description.

KEY QUOTATIONS

“An adequate legal description is required in adverse possession cases.” (1060-61)

“Thus, the proper remedy in this case is to remand for a determination by the district court of the actual legal description of the property adversely possessed by Mr. Clark.” (1061)

FACTUAL BACKGROUND

The Helms and Clark owned adjoining agricultural properties in Lincoln County, Wyoming. A longstanding fence separating their pastures had been built south of the recorded property line, enclosing part of the Helms' deeded property with Clark's pasture. Clark and his predecessors used the disputed area for grazing livestock for many years, while the Helms knew of the discrepancy between the fence and the recorded boundary but did not take action to stop the possession after at least 1968.

PROCEDURAL HISTORY

The Helms filed an ejectment action on October 25, 2007, asserting ownership to the recorded property line. Clark counterclaimed that he had acquired title to the disputed area by adverse possession. Following a bench trial, the district court found that Clark established adverse possession and quieted title in him. The Wyoming Supreme Court affirmed the adverse-possession determination but reversed and remanded because the district court's description of the size and location of the property was unsupported by the evidence.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must determine the exact legal description and location of the property adversely possessed by Clark and determine whether relocation of the Clark-Nebeker fence affected the disputed area or Clark's ability to satisfy the ten-year statutory requirement.

CASES CITED

- Mullinnix LLC v. HKB Royalty Trust, 2006 WY 14, ¶ 12, 126 P.3d 909, 916 (Wyo. 2006)
- Addison v. Dallarosa-Handrich, 2007 WY 110, ¶¶ 8, 11, 161 P.3d 1089, 1091-92 (Wyo. 2007)
- Cook v. Eddy, 2008 WY 111, ¶¶ 6-7, 9-10, 18, 22, 193 P.3d 705, 708-12 (Wyo. 2008)
- Gillett v. White, 2007 WY 44, ¶ 15, 153 P.3d 911, 915 (Wyo. 2007)
- Braunstein v. Robinson Family Limited Partnership, LLP, 2010 WY 26, ¶ 18, 226 P.3d 826, 833-34 (Wyo. 2010)
- Hillard v. Marshall, 888 P.2d 1255, 1259 (Wyo. 1995)
- Davis v. Chadwick, 2002 WY 157, ¶ 9, 55 P.3d 1267, 1270-71 (Wyo. 2002)
- Hovendick v. Ruby, 10 P.3d 1119, 1123 (Wyo. 2000)
- Hutchins v. Payless Auto Sales, Inc., 2004 WY 22, ¶ 15, 85 P.3d 1010, 1013 (Wyo. 2004)
- Pokorny v. Salas, 2003 WY 159, ¶ 15, 81 P.3d 171, 175 (Wyo. 2003)
- Inserra v. Violi, 679 N.W.2d 230 (Neb. 2004)
- Trinity River Authority v. Hughes, 504 S.W.2d 822 (Tex. Civ. App. 1974)
- Murdock v. Zier, 2006 WY 80, ¶ 17, 137 P.3d 147, 152 (Wyo. 2006)
- Doenz v. Garber, 665 P.2d 932, 935, 937 (Wyo. 1983)
- Stryker v. Rasch, 57 Wyo. 34, 51, 112 P.2d 570, 577 (Wyo. 1941)
- Kimball v. Turner, 993 P.2d 303 (Wyo. 1999)
- Sowerwine v. Nielson, 671 P.2d 295 (Wyo. 1983)
- Wilson v. Lucerne Canal & Power Co., 2007 WY 10, ¶ 26, 150 P.3d 653, 663 (Wyo. 2007)