

VERMONT SUPERIOR COURT, CIVIL DIVISION, CHITTENDEN UNIT

Newbold v. Donaldson

Newbold v. Donaldson · No. 25-CV-03936 · Decided February 25, 2026

SUMMARY

The Vermont Superior Court grants Maisie Newbold’s motion for default judgment in a partition action involving jointly owned residential property. The court authorizes Newbold to place the property on the market after 45 days, subject to proving that the sale price reflects fair market value and that the sale was commercially reasonable. The court denies without prejudice her additional requests for authority to sign documents on Donaldson’s behalf, possession, and fees and costs.

CASE DETAILS

COURT	Vermont Superior Court, Civil Division, Chittenden Unit
WRITING FOR THE COURT	Colin Owyang
JURISDICTION	Vermont Superior Court, Chittenden Unit
DECIDED	February 25, 2026
DOCKET	25-CV-03936
DISPOSITION	other
PROCEDURAL POSTURE	Newbold filed a partition complaint and moved for default judgment after Donaldson was served but failed to appear, answer, or respond. The court considered Newbold's affidavit and supporting documentation and granted the motion in part.
STANDARD OF REVIEW	The court made factual findings by a preponderance of the credible evidence. No separate appellate standard of review was stated.
PRECEDENTIAL VALUE	unknown
PARTIES	Maisie Newbold v. Isaiah Donaldson

TOPICS

- default judgment
- default
- partition
- real estate
- civil procedure

PRACTICE AREAS

- civil procedure
- real estate
- remedies

QUESTIONS PRESENTED

1. Whether a joint owner who has established that jointly owned residential property cannot be divided may obtain partition.
2. Whether, in the absence of an assignment to one co-owner and after the defendant's default, the court may waive commissioners and authorize an open-market sale of the property.
3. Whether Newbold was entitled at this stage to authority to execute sale documents for Donaldson, possession of the property, and attorney fees and costs.

HOLDINGS

1. A joint owner is entitled to seek partition, and partition is appropriate where the owner does not wish to remain a co-owner and the property cannot be divided between the co-owners.
2. Partition in kind is preferred, assignment to one co-owner is next preferred, and sale is authorized when the property cannot be divided and no party will take an assignment.
3. In a defaulted partition action, the court may waive the use of commissioners and authorize the property to be placed on the open market for sale when that procedure is reasonable under the circumstances.
4. Newbold was not entitled at this stage to authority to sign sale documents for Donaldson, possession of the property, or an award of fees and costs; those requests were denied without prejudice.

KEY QUOTATIONS

“[P]artition ‘is based upon the principle that no one can be compelled to hold property with another, and it is available to anyone who does hold property in common with another.’” (Discussion)

““[P]artition in kind is preferable to assignment, and assignment is preferable to sale.”” (Discussion)

““If no party will take an assignment, the court may order the property to be sold.”” (Discussion)

FACTUAL BACKGROUND

Newbold and Donaldson purchased a single-family residence in Winooski in May 2018 as joint tenants with rights of survivorship. The property cannot reasonably be divided, and Newbold no longer wishes to own it. Newbold attempted to reach an agreement under which Donaldson would acquire the property and compensate her or the property would be sold, but the parties did not agree. Donaldson was served with the partition complaint and did not appear or respond.

PROCEDURAL HISTORY

Newbold commenced a partition action on September 10, 2025, concerning jointly owned residential property. Donaldson was served in September 2025 but did not participate in the action. Newbold moved for default judgment and requested authority to sell the property; the court granted permission to market the property after a 45-day period but denied her additional requests without prejudice.

DISPOSITION

other

CASES CITED

- Bruner v. Gee, 2023 VT 49, ¶ 16, 218 Vt. 397
- Wynkoop v. Stratthaus, 2016 VT 5, ¶ 19, 201 Vt. 158
- Wilk v. Wilk, 173 Vt. 343, 347 (2002)
- Wilk v. Wilk, 173 Vt. 343, 344 (2002)
- Whippie v. O'Connor, 2010 VT 32, ¶ 18, 187 Vt. 523, 535
- Snide v. Burke-Schoff, No. 734-11-12 Wrcv, 2014 WL 10321329, at *3 (Vt. Super. Ct. Sept. 4, 2014)

OPINION

Newbold v. Donaldson

PER CURIAM.

Termont Superior Court Filed 02/24/26 Chittenden Unit

VERMONT SUPERIOR COURT CIVIL DIVISION

Chittenden Unit Case No. 25-CV-03936 175 Main Street Burlington VT 05401 802-863-3467
www.vermontjudiciary.org Maisie Newbold v. Isaiah Donaldson

ENTRY REGARDING MOTION

Title: Motion for Default Judgment (Motion: 1) Filer: Brian Creech Filed Date: January 14, 2026
Maisie Newbold filed a complaint for partition on September 10, 2025, and served Defendant Isaiah Donaldson the following week. Donaldson has not appeared, answered or responded to Newbold's motion. Newbold requests an order allowing her to sell the property she and Donaldson own as joint tenants with rights of survivorship. For the reasons that follow, the court GRANTS Newbold's motion (Mot. 1). I. Findings of Fact Based on Newbold's affidavit and supporting documentation, the court makes the following findings by a preponderance of the credible evidence. In May 2018, Newbold and Donaldson purchased a single-family house in Winooski ("the Property") as joint tenants with rights of survivorship. The Property consists of a 0.15-acre parcel containing a three-bedroom, one-bath, single-story dwelling that the Town of Winooski assessed for the 2025-26 tax year at \$403,000. The Property is subject to mortgage deed raa securing a note in the original principal amount of \$245,000. The outstanding principal of the note as of December 1, 2025, was \$203,242.14. According to UCC Financing Statement dated raa April 3, 2020, the Property has solar panels that serve as collateral for a loan to purchase the panels, and, as of August 2025, the principal balance of this loan was \$22,487.60. Newbold and Donaldson previously had a romantic relationship. Newbold has since moved out of the Property. Donaldson accepted service of process at the Property in September 2025, and Newbold believes Donaldson continues to reside at the Property. Newbold no longer wants to own the Property. Newbold has corresponded with Donaldson to try to agree on (1) assigning the Property to him subject to his

payment to her of her co-equal share and removing her name from the mortgage, note, and solar loan or (2) selling the Property. The parties have not reached an agreement and cannot divide the Property between them, given the nature of the Property. Newbold seeks the court's permission to sell the Property on the open market, sharing the proceeds with Donaldson, after paying the mortgage note, solar loan, and related expenses.

II. Discussion Newbold, as a joint owner of the Property, is entitled to partition. 12 V.S.A. § 5161; see *id.* § 5163 (joint tenant may file partition action in county where property is located by serving complaint and summons on all parties interested in the estate); *Bruner v. Gee*, 2023 VT 49, ¶ 16, 218 Vt. 397 (“[P]artition ‘is based upon the principle that no one can be compelled to hold property with another, and it is available to anyone who does hold property in common with another.’”) (quoting *Wynkoop v. Stratthaus*, 2016 VT 5, ¶ 19, 201 Vt. 158). “[P]artition in kind is preferable to assignment, and assignment is preferable to sale.” *Wilk v. Wilk*, 173 Vt. 343, 347 (2002). When the real estate cannot be divided “without great inconvenience to the parties interested,” the court may order the property assigned to one of the parties, provided they pay the other party an equitable amount for their share of the property. 12 V.S.A. § 5174. See also *Wilk v. Wilk*, 173 Vt. 343, 344 (2002) (commissioners concluded one-acre parcel with house and commercial garage could not be reasonably divided between co-owners). Newbold is willing to assign the Property to Donaldson if he compensates her for her equitable share and removes her name from the mortgage note and solar loan. Donaldson has not cooperated with Newbold to resolve the situation outside of court. He has not filed anything with the court either. “If no party will take an assignment, the court may order the property to be sold.” *Bruner*, 2023 VT 49, ¶ 16 (citing 12 V.S.A. § 5175); accord *Wilk*, 173 Vt. at 346–47. In the case of a default like Donaldson’s, “the court shall render judgment that partition be made and appoint three disinterested residents of the county as commissioners . . . to make partition of the estate and set off each share of the several persons interested, according to their respective titles, and shall award to the plaintiff reasonable costs against the adverse party.” 12 V.S.A. § 5169(a). The court may also “waive the use of commissioners and have all matters decided by the court at a bench trial.” *Id.* § 5169(b). Newbold has asked the court to waive the use of commissioners and to allow her to sell the Property at market value. The court finds this proposal reasonable for the Property in this case and, absent objection from Donaldson, grants the request. Newbold will bear the burden of proving that the Property’s eventual sale price reflects fair market value and that the Property sale took place in a commercially reasonable manner. Cf. *Whippie v. O'Connor*, 2010 VT 32, ¶ 18, 187 Vt. 523, 535 (noting that “the party with the burden of proof on a particular claim of contribution or offset must bear the risk of failing to prove the necessary financial facts”).

III. Order The court grants Newbold’s motion for default judgment (Mot. 1). Newbold may place the Property on the market for sale no earlier than 45 days after the date of this order. The court denies without prejudice Newbold’s other requests at this time. Newbold has also requested authority to sign a purchase and sale agreement and other relevant documents on behalf of Donaldson, judgment for

possession of the Property, and an award of fees and costs. 2 See *Snide v. Burke-Schoff*, No. 734-11-12 Wrcv, 2014 WL 10321329, at *3 (Vt. Super. Ct. Sept. 4, 2014) (Teachout, J.) (statute authorizes allocation of costs in partition actions) (citing 12 V.S.A. § 5169). The court hopes Donaldson will take a more active role in this case, mooted Newbold's remaining requests. If he does not, she may renew them. Electronically signed pursuant to V.R.E.F. 9(d) on February 23, 2026. Colin Owyang Superior Court Judge 3