

IN THE SUPREME COURT OF THE STATE OF DELAWARE

SHIRLEY HARLEY BROWN,	§
	§ No. 253, 2012
Intervenor Below,	§
Appellant,	§
v.	§ Court Below-Court of Chancery
	§ of the State of Delaware
	§
STORNAWAYE CAPITAL	§ C.A. No. 18845
LLC/NEW FALLS	§
CORPORATION,	§
	§
Plaintiff Below,	§
Appellee,	§
v.	§
	§
SANDRA SMITHERS,	§
	§
Defendant Below,	§
Appellee.	§

Submitted: September 7, 2012

Decided: October 24, 2012

Before **BERGER, JACOBS**, and **RIDGELY**, Justices.

**ORDER**

This 24<sup>th</sup> day of October 2012, upon consideration of the briefs of the parties, and the record below, it appears to the Court that:

(1) The intervenor-appellant, Shirley Harley Brown (“Brown”), appeals from the Court of Chancery’s April 27, 2012 order denying her motion for summary judgment and granting the motion for summary

judgment of the plaintiff-appellee, Stornawaye Capital LLC (“Stornawaye”) under Court of Chancery Rule 56.<sup>1</sup> We find no merit to the appeal. Accordingly, we affirm.<sup>2</sup>

(2) The property that is the subject of this case is located at 1008 North Walnut Street, Wilmington, Delaware (the “Property”). Brown’s mother, Rachel Harley (“Harley”), and her husband owned the Property as tenants by the entirety. At the time of her husband’s death in 1978, Harley became the sole owner of the Property.<sup>3</sup> On June 26, 1991, Harley executed a deed conveying the Property to another daughter, Sandra Smithers (“Smithers”). The deed was properly executed and filed in the office of the New Castle County Recorder of Deeds. The record reflects that there was no objection to the conveyance of the Property to Smithers at that time, and that Brown has been aware of the conveyance since at least 1993. There is no evidence that Harley suffered from any mental impairment at the time she conveyed the Property to Smithers.

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<sup>1</sup>While this case was pending in the Court of Chancery, New Falls Corporation, Stornawaye’s successor-in-interest, was substituted as the proper party plaintiff. Stornawaye’s counsel has continued to litigate the case on behalf of both parties.

<sup>2</sup> The defendant-appellee, Sandra Smithers, has not participated in the proceedings on appeal.

<sup>3</sup> The Register of Wills documentation reflects that the Property passed to Harley as the surviving tenant by the entirety.

(3) In September 1995, Stornawaye's predecessor-in-interest, Delaware Trust Company, granted a loan to Smithers for her shoe business.<sup>4</sup> The loan was secured by personal guarantees by both Smithers and her sister Mary, and also by a mortgage on the Property. As with the deed conveying the Property to Smithers, the loan documents were properly executed and recorded.

(4) The record before us indicates that, in 1999, Brown petitioned the Court of Chancery to be appointed the guardian of Harley. Although it is unclear why, Brown's petition was denied. Instead Mary was appointed Harley's guardian. The order granting the guardianship noted that, at that time, Harley suffered from dementia caused by Alzheimer's disease. There is no evidence that during the guardianship proceedings Brown made any argument challenging the 1991 conveyance. The guardianship matter and the instant case were consolidated in the Court of Chancery in 2004. Not until then did Brown first question the validity of the 1991 conveyance.

(5) Smithers defaulted on the loan, and foreclosure proceedings were initiated in July 2000.<sup>5</sup> On February 12, 2010, the Court of Chancery ruled

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<sup>4</sup> Thereafter, the loan was bought and sold on the secondary market over the course of at least 17 years.

<sup>5</sup> The foreclosure complaint was initially filed in the Superior Court, but, because the mortgage in question was not filed under seal, the case was transferred to the Court of Chancery for proceedings in equity.

provisionally in favor of Stornawaye and against Smithers, but permitted Brown to intervene to show cause why summary judgment should not be entered in Stornawaye's favor. On January 24, 2012, after Brown had filed several motions,<sup>6</sup> and after full briefing on the parties' cross-motions for summary judgment, the Court of Chancery held a hearing.

(6) The transcript of that hearing reflects that both Brown and Stornawaye were given ample opportunity to present arguments on their respective motions. The essence of Brown's claim was that Harley was not competent at the time she conveyed the Property to Smithers and/or that she was the victim of undue influence by Smithers. Brown also claimed that, before the conveyance, she and her siblings had executed an "estoppel by deed," that was intended to prevent any one sibling from gaining an advantage over the others with respect to their parents' property. Although the Vice Chancellor requested a copy of the "estoppel by deed," it was not produced at the hearing, nor has any such document ever been produced.

(7) The Vice Chancellor's rationale for his decision on the parties' cross-motions for summary judgment is set forth in his April 27, 2012 order, and in his bench rulings following the January 24, 2012 hearing. Noting that

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<sup>6</sup> Brown's motions included a motion for summary judgment as a matter of law/for failure to state a claim upon which relief can be granted, a motion to show cause-contempt, a motion to set aside conveyances and encumbrances, and a motion for default judgment.

Brown had waited an inordinate amount of time to pursue her claim and that Stornawaye, as well as its predecessor-in-interest, had properly relied on the validity of the documentation in the public record, the Vice Chancellor concluded that Brown had failed to show any cause for not entering summary judgment in favor of Stornawaye and against Smithers.

(8) In this appeal, Brown makes several claims, which take the form of five questions that may fairly be summarized as follows: (a) the Court of Chancery's April 27, 2012 order granting Stornawaye's motion for summary judgment was contrary to its order of February 12, 2010 granting her motion to intervene; (b) the Court of Chancery failed to address all of her motions at the January 24, 2012 hearing; (c) the Court of Chancery failed to address the issue of Harley's incompetence at the time the Property was conveyed to Smithers; and (d) the Court of Chancery legally erred and/or abused its discretion when it entered summary judgment in favor of Stornawaye.

(9) Brown first claims that the Vice Chancellor's April 27, 2012 order was contrary to his previous order of February 12, 2010. We have reviewed both orders and find no inconsistency. The first order permitted Brown to intervene and present evidence concerning why summary judgment should not be entered in Stornawaye's favor. In that order, the Vice Chancellor noted that Brown would have to overcome "major

obstacles” to her claims, including her failure to object to the conveyance in a timely fashion and the fact that the documentation evidencing the transactions was facially valid. At the hearing, Brown argued that Harley was incompetent and/or the victim of undue influence. Ultimately, the Court of Chancery rejected that argument, but that does not make the Court of Chancery’s two orders inconsistent. We conclude that Brown’s first claim is without merit.

(10) Brown’s second claim is that the Vice Chancellor failed to address all of her motions at the hearing. The Vice Chancellor’s December 20, 2011 letter to the parties, which listed the matters to be taken up at the hearing, encompassed all of Brown’s motions. It appears that the Vice Chancellor viewed all of Brown’s motions as subsumed within his ultimate decision on the cross-motions for summary judgment. We find no abuse of discretion in the Vice Chancellor addressing Brown’s motions in that fashion. Brown’s second claim also lacks merit.

(11) Brown’s third claim is that the Vice Chancellor failed to address the issue of Harley’s incompetence at the time the Property was conveyed to Smithers. The transcript of the hearing reflects that the Vice Chancellor directly and thoroughly considered that issue, but concluded that there was “scant” evidence to support the claim, which he therefore rejected. We find

no abuse of discretion by the Vice Chancellor in so finding, and therefore, conclude that Brown's third claim also must fail.

(12) Brown's fourth, and final, claim is that the Vice Chancellor erred and/or abused his discretion by entering summary judgment in favor of Stornawaye. This Court reviews *de novo* the Court of Chancery's grant of summary judgment under Court of Chancery Rule 56.<sup>7</sup> In doing so, this Court determines whether the record establishes that there is no genuine issue of material fact, thus entitling the moving party to judgment as a matter of law.<sup>8</sup> This Court will accept the Court of Chancery's factual conclusions as long as they are supported by the record and are the product of an orderly and logical reasoning process.<sup>9</sup>

(13) We have carefully reviewed the parties' submissions, the Court of Chancery's rulings, and the record in this case. We conclude that the Vice Chancellor properly found that Brown failed to demonstrate any reason why the court should not enter summary judgment in favor of Stornawaye and against Smithers in accordance with its February 12, 2010 order. We

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<sup>7</sup> *Emerald Partners v. Berlin*, 726 A.2d 1215, 1219 (Del. 1999).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

further conclude that the Vice Chancellor properly denied Brown's motion for summary judgment. Accordingly, Brown's fourth claim is without merit.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Court of Chancery is AFFIRMED.<sup>10</sup>

BY THE COURT:

/s/ Jack B. Jacobs  
Justice

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<sup>10</sup> We do not address Brown's purported petition for a writ of habeas corpus as any such petition is irrelevant to this appeal.