

STATE OF MAINE

AROOSTOOK, ss

SUPERIOR COURT

CIVIL DOCKET

DOCKET NO. CARSC-CV-14-167

DAVID L. GAGNON and)
STEVEN GAGNON)
PLAINTIFFS)

vs.)

SHEILA CANNON)
DEFENDANT)

) ORDER ON DEFENDANT'S
) MOTION FOR SUMMARY
) JUDGMENT

On July 16, 2015 Defendant filed a motion for summary judgement. For the reasons set forth below, Defendant's motion is denied.

BACKGROUND

This action involves a piece of property located in Van Buren previously owned by Aurel and Albertine Gagon. In 1996 the Gagnon's were involved in discussions to sell the property to Peter Lagasse. Legasse paid the agreed upon amount and in January of 1997, the Gagnon's had a deed and transfer tax form prepared to convey the property to Mr. Lagasse. The Gagnon's purportedly signed the documents and had them mailed to Mr. Lagasse. See Affidavit of Anthony Martin dated June 11, 2015. The deed however was never recorded. Letters have been produced purportedly authored by Mr. Lagasse indicating generally his frustration in dealing with the Gagnon's, that he did not intend to record the deed, and that he wanted his money back. See Affidavit of Anthony Martin dated August 12, 2015.

The taxes on the property were not paid and ultimately in 1998 and 1999 the Town of Van Buren filed with the registry of deeds tax lien certificates against Aurel and Albertine Gagnon. The taxes remain unpaid. In September 2011 the Town of Van Buren conveyed the property to Sheila Cannon by a municipal quitclaim deed.

DISCUSSION

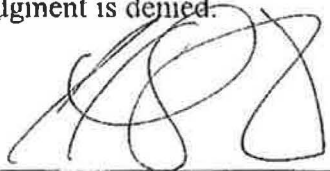
The Plaintiffs in this action are heirs of Aurel and Albertine Gagnon. They claim that the tax lien filing was ineffective to divest Aurel and Albertine Gagnon of title, and that they should be declared to have superior title to the property. Plaintiffs also argue that the deed

to Mr. Lagasse was not accepted and therefore title remained vested with Aurel and Albertine. See *Hood v. Hood*, 384 A.2d 706 (Me. 1978). In her motion for summary judgment, defendant argues that Aurel and Albertine Gagnon no longer owned the property and had divested themselves of any interest when they delivered the deed to Mr. Lagasse, (See *Waxler v. Waxler*, 699 A.2d 1161 (Me. 1997)) and therefore the heirs of Aurel and Albertine, Plaintiff's herein, have no standing or legal basis to bring this action. Plaintiffs counter that Mr. Lagasse did not accept the deed from Aurel and Albertine, so title remained with the Gagnon's.

Summary judgment is appropriate when there are no genuine issues of material fact, and the facts entitle a party to judgment as a matter of law. M.R. Civ. P. 56 (c); *In Re Estate of Davis*, 2001 ME 106, ¶7, 775 A.2d 1127, 1129. The Court should grant a defendant's motion for summary judgment if the evidence favoring the plaintiff is insufficient to support a verdict for the plaintiff as a matter of law. *Curtis v. Porter*, 2001 ME 158, ¶7, 784 A.2d 18,21. A fact is material when it has the potential to affect the outcome of the suit. *Kenny v. Dep't of Human Services*, 1999 ME 158, ¶3, 740 A.2d 560, 562. An issue is genuine if sufficient evidence supporting the claimed factual dispute exists to require a choice between the parties' differing versions of the truth at trial. *Id.*

In this case material facts remain. Both Plaintiff and Defendant rely on affidavits made by Anthony Martin, Tax Assessor for the Town of Van Buren. The affidavits taken together make the suggestion that a deed signed by Aurel and Albertine Gagnon was mailed to Mr. Lagasse, but that Mr. Lagasse did not record the deed and was not satisfied with the transaction. A question of fact that can only be resolved by trial remains whether there was delivery to and acceptance by Mr. Lagasse of the deed sufficient to pass title to Mr. Lagasse and divest Aurel and Albertine of title. Whether Aurel and Albertine were divested of title is a question of fact that must be resolved in order to ultimately rule on this case. Accordingly, Defendant's motion for summary judgment is denied.

Dated: December 5, 2016


Justice, Superior Court