

No. 02-386

IN THE SUPREME COURT OF THE STATE OF MONTANA

2003 MT 126N

LEAH RAE NOLLMEYER, FLOYD G.
NOLLMEYER and KATHRYN NOLLMEYER,

Plaintiffs and Appellants,

v.

CHARLES T. BURTON,

Defendant and Respondent.

APPEAL FROM: District Court of the Sixth Judicial District,
In and for the County of Park, Cause No. BDV 01-339
The Honorable Wm. Nels Swandal, Judge presiding.

COUNSEL OF RECORD:

For Appellants:

Leah Nollmeyer, Floyd Nollmeyer, Kathryn Nollmeyer (*Pro Se*)
Wilsall, Montana

For Respondent:

Joseph T. Swindlehurst; Huppert & Swindlehurst, Livingston,
Montana

Submitted on Briefs: February 20, 2003

Decided: April 29, 2003

Filed:

Clerk

Chief Justice Karla M. Gray delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(c), Montana Supreme Court 1996 Internal Operating Rules, the following decision shall not be cited as precedent. It shall be filed as a public document with the Clerk of the Supreme Court and shall be reported by case title, Supreme Court cause number and result to the State Reporter Publishing Company and to West Group in the quarterly table of noncitable cases issued by this Court.

¶2 Leah Rae Nollmeyer, Floyd G. Nollmeyer and Kathryn Rae Nollmeyer (Nollmeyers) appeal from the judgment entered by the Sixth Judicial District Court, Park County, in this action based on a sale of real property. We affirm.

¶3 While the Nollmeyers set forth nine issues on appeal, the dispositive issue is whether substantial credible evidence supports the District Court's findings that the property Charles T. Burton purchased from the Nollmeyers included all of Section 27, Township 4 North, Range 9 East, P.M.M., Park County, Montana, except that portion located in the SE ¼ of Section 27 east of the county road.

¶4 We have determined to decide this case pursuant to our Order dated February 11, 2003, amending Section 1.3 of our 1996 Internal Operating Rules and providing for memorandum opinions. On the face of the briefs and the record on appeal before us, it is manifest that the appeal is without merit because the issues are clearly controlled by settled Montana law which the District Court has correctly interpreted and because there is clearly sufficient evidence to support the District Court's findings of fact.

¶5 We affirm the judgment of the District Court.

/S/ KARLA M. GRAY

We concur:

/S/ PATRICIA COTTER

/S/ JAMES C. NELSON

/S/ W. WILLIAM LEAPHART

/S/ JIM RICE