

DA 23-0008

IN THE SUPREME COURT OF THE STATE OF MONTANA

2023 MT 135N

THE ESTATE OF MATEO MAGNIA CHAVEZ,

Plaintiff and Appellee,

v.

THE ESTATE OF ALFRED CHAVEZ JR.,

Defendant and Appellant.

APPEAL FROM: District Court of the Twenty-First Judicial District,
In and For the County of Ravalli, Cause No. DV-2020-470-DK
Honorable Howard F. Recht, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Joan K. Mell, III Branches, Law, PLLC, Hamilton, Montana

For Appellee:

William J. Nelson, Nelson Law Office PLLC, Hamilton, Montana

Submitted on Briefs: May 31, 2023

Decided: July 11, 2023

Filed:


Clerk

Justice Jim Rice delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(c), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent. Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 The Estate of Alfred Chavez, Jr. (Alfred or Alfred's Estate), appeals from the orders of the Twenty-First Judicial District Court, Ravalli County, which denied its demand for a jury trial in this adverse possession proceeding, upon the District Court's Rule 54(b) certification of its rulings as "final orders involving a controlling question of law." M. R. Civ. P. 54(b); M. R. App. P. 6(6). Appellee Estate of Mateo Magnia Chavez (Mateo or Mateo's Estate) argues the District Court properly denied a jury trial for the proceeding.

¶3 We first address procedural missteps that have occurred in this appeal. The Notice of Appeal filed by Alfred's Estate stated the appeal was "from an order certified as final consistent with M. R. Civ. P. 54(b), and that a copy of the certification order is attached to this notice," which is required by M. R. App. P. 4(4)(b). However, while the District Court's two orders on the jury question were attached to the Notice of Appeal, the certification order was not. That omission may have contributed to the failure of the Clerk of Court to forward the Notice of Appeal and certification order to this Court for preliminary review, pursuant to Rule 4(4)(b), of compliance with the requirements of Rule 54(b) and appellate Rule 6(6), and, if compliant, issuance of an order allowing the appeal

to proceed. Unfortunately, that process did not occur, the Court was not alerted by any of the parties, and the matter proceeded directly to appellate briefing.

¶4 Upon a belated review of the jury orders and the certification order, for purposes of Rule 6(6), it is doubtful this Court would have concluded the District Court’s ruling on the jury issue was a certifiable final judgment for purposes of appeal under Rule 54(b), approved the certification, and allowed the appeal to proceed. However, this Court’s pre-trial review of the jury issue could have been sought via supervisory control, subject, of course, to satisfaction of the governing standards. M. R. App. P. 14(3). While not sought by the Appellant here, “[t]he Court may invoke its power of supervisory control over a matter brought before the Court by direct appeal.” *Gateway Hosp. Grp. Inc. v. Phila. Indem. Ins. Co.*, 2020 MT 125, ¶ 3, 400 Mont. 80, 464 P.3d 44; *State v. Spady*, 2015 MT 218, ¶ 11, 380 Mont. 179, 354 P.3d 590. We conclude the jury question raised herein raises an issue appropriately reviewed under the Court’s original jurisdiction, *see* Article VII, Section 2(2) of the Montana Constitution, and therefore we accept supervisory control to resolve the issue for purposes of this proceeding.

¶5 This case has not yet been tried, and thus we take the facts as they are asserted in the record. The dispute arises over farm and ranch property in Ravalli County that the family commonly refers to as “the Ranch.” Julia Chavez, mother to brothers Mateo and Alfred, purchased the Ranch in 1968, which was then titled in the names of Julia and Mateo as joint tenants with rights of survivorship. However, Mateo apparently was seldom at the Ranch in subsequent years, while Alfred, though not holding title, lived there, paid the

taxes on the property, and maintained it over many years. Julia transferred her interest in the Ranch to Mateo in January of 2002.

¶6 When Mateo died in 2020, he left the Ranch to other of his and Alfred's brothers, Ted, Ben, and Rudy. Ted was named personal representative under Mateo's Will. Alfred contested the Will, claiming ownership of the Ranch, and refused to vacate. Mateo's Estate filed a declaratory judgment and sought injunctive action to resolve Alfred's claims and remove Alfred from the Ranch. Alfred answered and counterclaimed for quiet title to the house and to five acres of the Ranch. Alfred died shortly thereafter, and his Estate assumed the litigation. Both Estates sought summary judgment. After a hearing, the District Court entered an order in June of 2022, concluding Mateo's will was valid, and granting summary judgment in favor of Mateo's Estate on Alfred's claims of constructive trust, unjust enrichment, waste, and statute of frauds. The only issue for which the District Court did not grant summary judgment was Alfred's claim of adverse possession, noting it would "need to hear further testimony regarding the disputed facts."

¶7 Following its summary judgment order, the District Court entered a Jury Trial Preparation Order. In a subsequent hearing, the parties "raised the question of what issues may be tried before a jury" and the District Court directed the parties to confer and try to reach an agreement on the jury trial issue. Mateo's Estate filed a Status Report with the court in September of 2022 notifying the District Court that the jury trial issue remained unresolved. On October 18, 2022, the District Court entered its Order Re Jury Trial, noting Alfred's Estate had not filed a pleading regarding the jury question after it was raised by

the District Court in July, and holding that, “[s]eeing as the issues here concern questions of equity, the Defendant is not entitled to a jury trial.” Alfred’s Estate filed a motion and memorandum of law to set aside the court’s order and “Reinstate the Jury Trial Order to Hear Case by Jury.” On October 31, 2022, the District Court again rejected the jury trial request, denying the motion to set aside. Upon request by Alfred’s Estate, and over the objection of Mateo’s Estate, the District Court entered an order in December of 2022 certifying the jury trial question as a “final order” for purposes of appeal to this Court, as further discussed above.

¶8 The only issue before this Court is whether Alfred’s Estate has a right to a trial by jury on its claim of adverse possession.¹ The Montana Constitution provides a right to a jury trial that is “inviolable” for “those causes of action ‘in which the right was enjoyed when the [C]onstitution was adopted.’” *State v. Chilinski*, 2016 MT 280, ¶ 8, 385 Mont. 249, 383 P.3d 236 (citing *Supola v. Mont. DOJ, Drivers License Bureau*, 278 Mont. 421, 424-25, 925 P.2d 480, 482 (1996) (citations omitted)). In *Supola*, we “recognized that a party has never had a jury trial right in a purely equitable action.” *Chilinski*, ¶ 8 (citing *Supola*, 278 Mont. at 425, 925 P.2d at 482). We analyzed the 1972 Constitutional Convention and observed that “delegates at the 1972 [C]onvention proposed an amendment which would have extended the [jury trial guarantee] to actions in equity, but that the

¹ We decline to dispose of this case on the procedural grounds argued by Mateo’s Estate, premised upon Alfred’s failure to respond to Mateo’s initial notice to the District Court of the pending jury issue, and Mateo’s contention that Alfred’s motion to set aside was not properly supported by legal authority.

amendment failed on the floor.” *Chilinski*, ¶ 8 (citing *Supola*, 278 Mont. at 424-25, 925 P.2d at 482).

¶9 Here, the District Court cited *Getter v. Beckman*, 236 Mont. 377, 769 P.2d 714 (1989), for its conclusion that Alfred’s Estate was not entitled to a jury trial. In *Getter*, we considered whether the defendants had a right to a jury trial in a quiet title action, and, relying on *McGuiness v. Maynard*, 202 Mont. 484, 658 P.2d 1104 (1983), held that “actions to quiet title are actions in equity” and, accordingly, “[i]n equity actions, a district court may impanel an advisory jury but is not required to do so.” *Getter*, 236 Mont. at 381.

¶10 Alfred’s Estate asks us to depart from *Getter* and *McGuiness* and instead follow the holding in *Chilinski*, wherein we concluded that “where legal and equitable claims are bound together in the same case, the right to a jury trial attaches to the legal claims, and ‘must not be infringed either by trying the legal issues as incidental to equitable ones or by a court trial of a common issue between the claims.’” *Chilinski*, ¶ 9 (citing *Supola*, 278 Mont. at 425, 925 P.2d at 482) (internal citations omitted). However, we conclude *Chilinski* is distinguishable here. In *Chilinski*, the cause of action brought by the State was for civil forfeiture of Chilinski’s property used for the production and sale of dangerous drugs, in accordance with § 44-12-201, MCA (2013). Specifically, at issue was § 44-12-203(3), MCA, which denied the party who owned the property a jury trial in the forfeiture proceeding. Contrasting our earlier precedent, we focused on the penological function of § 44-12-203(3), MCA, and reasoned that the “forfeiture of property, even chattels, was a *penalty* reserved for only the most serious of crimes” (emphasis added), and concluded the

penalty function of the statute required a jury trial. *Chilinski*, ¶ 15. We held that “[w]here the underlying purpose of an action serves as a penalty, the action is not in equity.” *Chilinski*, ¶ 22. As such, *Chilinski* turned not on the issue of possession, as Alfred’s Estate urges, but on the nature of the statute and its purpose as a sanction, as we further noted the “[t]he State’s position suggests it was pursuing a statutory forfeiture proceeding in lieu of a criminal prosecution against Chilinski; that is, that the forfeiture proceeding would protect the State’s penological interest in Chilinski.” *Chilinski*, ¶ 22.

¶11 In contrast, there is no congruent purpose here. At issue is an adverse possession claim meant to quiet title between two private parties, not an effort by the State to penalize a citizen by seizing her property. As such, we decline to follow *Chilinski* here and instead follow our precedent detailed in *Getter*, that an action to quiet title is an action in equity and therefore does not mandate a right to a jury trial. We have often reviewed such matters after a bench trial. See e.g., *Cremer Rodeo Land & Livestock Co. v. McMullen*, 2023 MT 117, 412 Mont. 471, ___ P.3d ___ (reviewing a district court’s rulings on prescriptive easements following a three-day bench trial); *Soup Creek LLC v. Gibson*, 2019 MT 58, 395 Mont. 105, 439 P.3d 369 (reviewing a trial court’s bench trial findings on adverse possession and easements); *Letica Land Co., LLC v. Anaconda-Deer Lodge Cnty.*, 2015 MT 323, 381 Mont. 389, 362 P.3d 614 (reviewing an appeal from a five-day bench trial for claims of prescriptive easements and reverse adverse possession); *Steed v. Solso*, 2010 MT 264, 358 Mont. 356, 246 P.3d 697 (reviewing a trial court’s rulings following a bench trial on a quiet title action); and *Steiger v. Brown*, 2007 MT 29, 336 Mont. 29, 152 P.3d 705

(reviewing a district court's findings during a bench trial for claims of prescriptive easement and adverse possession).

¶12 We accept Alfred Estate's deemed petition for supervisory control for the reasons stated herein. Alfred's Estate has not carried its burden to demonstrate the District Court is proceeding under a mistake of law, and the District Court's orders denying a jury trial are affirmed for this purpose. We have determined to decide this case pursuant to Section I, Paragraph 3(c) of our Internal Operating Rules, which provides for memorandum opinions.

¶13 The Clerk is directed to forward a copy of this Memorandum Opinion to all counsel of record in the Twenty-First Judicial District Court Cause No. DV-20-470, and to the Honorable Howard F. Recht, presiding District Judge.

/S/ JIM RICE

We concur:

/S/ MIKE McGRATH
/S/ LAURIE McKINNON
/S/ INGRID GUSTAFSON
/S/ DIRK M. SANDEFUR