

NON-PRECEDENTIAL DECISION – SEE SUPERIOR COURT I.O.P 65.37

MONTY CLAIR CHAPMAN, TRUSTEE OF	:	IN THE SUPERIOR COURT OF
THE MONTY CLAIR CHAPMAN TRUST	:	PENNSYLVANIA
AGREEMENT DATED AUGUST 17, 2000,	:	
AND CONNIE A. CHAPMAN,	:	
	:	
Appellants	:	
	:	
v.	:	
	:	
CHEVRON APPALACHIA, LLC,	:	
	:	
Appellee	:	No. 1201 WDA 2015

Appeal from the Order Entered July 14, 2015
in the Court of Common Pleas of Clarion County
Civil Division at No(s): 902 CD 2014

BEFORE: SHOGAN, OLSON, and STRASSBURGER,* JJ.

DISSENTING MEMORANDUM BY STRASSBURGER, J.: **FILED: AUGUST 29, 2016**

Because the trial court erred in sustaining the preliminary objections in the nature of a demurrer filed by Chevron Appalachia, LLC (“Chevron”), I respectfully dissent and offer the following analysis.

“The question presented by the demurrer is whether, on the facts averred, the law says with certainty that no recovery is possible. Where any doubt exists as to whether a demurrer should be sustained, it should be resolved in favor of overruling the demurrer.” *Sullivan v. Chartwell Inv. Partners, LP*, 873 A.2d 710, 714 (Pa. Super. 2005).

Instantly, there is no dispute that in November 2012, a month after the lease purportedly expired, Chevron recorded both leases. The effect of that recording, however, is in dispute. Here, the trial court sustained

*Retired Senior Judge assigned to the Superior Court.

Chevron's preliminary objection, in part, based on the conclusion that "even if [it] were to decide that [Chevron's] rec[ording] of the leases was a manifestation of assent, such a manifestation would have had no effect because the period to accept the offer had expired." Trial Court Opinion, 7/14/2015, at 3. That may be true; however, at this juncture, it is premature to make that determination. What effect, if any, the recording of the leases had is the type of issue that warrants, at a minimum, the opportunity to conduct discovery. Accordingly, the trial court erred in sustaining Chevron's preliminary objection in the nature of a demurrer.