

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

CORNWALL MOUNTAIN INVESTMENTS, L.P.,	:	NO. 11 – 00,718
Plaintiff	:	
	:	CIVIL ACTION - LAW
vs.	:	
	:	
THOMAS E. PROCTOR HEIRS TRUST,	:	
INTERNATIONAL DEVELOPMENT CORP.,	:	
PENNLICO, LTD., LANCASTER EXPLORATION AND:	:	
DEVELOPMENT CO., LLC, eCORP RESOURCE	:	
PARTNERS I, LP, SOUTHWESTERN ENERGY	:	
PRODUCTION CO., VIRGINIA ENERGY	:	
CONSULTANTS, LLC, ATLANTIC HYDROCARBON,	:	
LLC, CHIEF EXPLORATION & DEVELOPMENT, LLC, :	:	
and QUEST EASTERN RESOURCES, LLC,	:	Motion for Partial
Defendants	:	Default Judgment

OPINION AND ORDER

Before the Court is the Motion for Partial Default Judgment filed by Plaintiff on December 19, 2011. Argument was heard March 19, 2012.

Plaintiff brought this action to quiet title to property located in Lewis and Cogan House Townships, asserting that it acquired title to the disputed property by way of certain tax sales and/or adverse possession. In the instant motion for Partial Default Judgment, brought under Pa.R.C.P. 1066, Plaintiff seeks a default judgment against eCorp Resource Partners I, LP, International Development Corporation and Lancaster Exploration and Development Co., LLC, on the basis that none of these defendants filed an Answer or other responsive pleading. Defendant Pennlyco opposes entry of default judgment against International Development Corporation (IDC) on the grounds that such judgment would bind not only IDC but also its successors and assigns and anyone claiming by, through, or under them, and it is asserting a claim by, through, or under IDC. Pennlyco filed an “Answer of Defendant Pennlyco, Ltd. on behalf of Defendant International Development Corporation” on March 7, 2012, and contends that default judgment is thus inappropriate.

In Peck v. New Kensington, 478 A.2d 129 (Pa. Super. 1984), the Court gave credence to an Answer filed by parties making a claim through a named defendant (even though they themselves were not named defendants) and thus struck a judgment entered against the named defendant for failure to file an Answer. The Court affirmed the trial court's conclusion that "[w]here a quiet title action is brought against named defendants, "their successors and assigns", a petition to intervene is unnecessary where the parties filing claim to be a successor or assignee of the rights of the named defendant." Id.

In the instant case, Defendant Pennlyco is making a claim through IDC, and thus the Answer filed on IDC's behalf by Pennlyco must be accorded recognition. Pursuant to Pa.R.C.P. 1066, relief must be granted to a plaintiff "upon affidavit that a complaint containing a notice to defend has been served and that the defendant has not filed an answer". Since here an answer has been filed, judgment against IDC would be inappropriate.

Accordingly, the court will enter the following:¹

ORDER

AND NOW, this 29th day of March 2012, for the foregoing reasons, the motion for default judgment against International Development Corporation is hereby DENIED.

BY THE COURT,

Dudley N. Anderson, Judge

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Gary Weber, Esq.
Hon. Dudley Anderson

¹ A separate order will issue entering default judgment against eCorp Resource Partners I, LP and Lancaster Exploration and Development Co., LLC, as no opposition to such has been voiced.