

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

KENNETH E. MYERS and ROSALIND A. MYERS, Plaintiffs	:	NO. 11 - 01,079
	:	
vs.	:	CIVIL ACTION - LAW
	:	
	:	
JEFFREY A. SNYDER and JONATHAN SNYDER, Defendants	:	Motion for Summary Judgment:

OPINION AND ORDER

Before the Court is Plaintiff's Motion for Summary Judgment, filed May 1, 2012. Argument was heard May 30, 2012.

In their Complaint, Plaintiffs seek an order requiring Defendants to remove a barrier they erected across a private road known as Morgan Valley Road in Nippenose Township where the road crosses the common boundary line between the parties' respective properties. Plaintiffs allege the road had previously been a public road but was abandoned by the Township in 1931 and left open as a private road for the use and benefit of the property owners along the road. Defendants contend the use as a private road has been extinguished by adverse possession, abandonment and cessation of purpose. Specifically, Defendants allege in their Answer that more than forty years ago, their predecessor in title placed a cable at the eastern end of his property which completely blocked off the roadway at that end, and that the owners of three cabins on the western end of the road erected a gate at the western end of the road which blocked the road to all but the three of them for a period in excess of twenty-one years.

In their motion for summary judgment, Plaintiffs contend that "Defendants have failed to aver facts that are sufficient to sustain a claim that the portion of Morgan Valley Road at issue in this case, namely at the common boundary line between the parties' respective properties, has been extinguished by adverse possession or otherwise as, even if true, the factual averments asserted by Defendants are insufficient to support their claim as a matter of law." The court does not agree with this contention. If Defendants are able to prove what they allege, that the road has been blocked from usage at either end for a period of more than

twenty-one years and had in fact not been used for that period of time, they will be able to show abandonment of the road or adverse possession. Apparently, Plaintiffs are going to show that the portion of the road as it passes from their property to Defendants property was in fact used during that period of time, but that does not entitle them to summary judgment. They must present their evidence of such at trial.

ORDER

AND NOW, this 31st day of May 2012, for the foregoing reasons, Plaintiffs' motion for summary judgment is hereby denied.

BY THE COURT,

Dudley N. Anderson, Judge

cc: J. Michael Wiley, Esq.
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Hon. Dudley Anderson