

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 Post-Trial Relief

OPINION AND ORDER

Before the Court is Defendants' Motion for Post-Trial Relief, filed July 23, 2012. Argument was heard September 4, 2012.

After a trial on June 29, 2012, the court granted Plaintiffs' request for 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, and also required Defendants to provide Plaintiffs with a key to the gate at the eastern edge of the property and directed that Defendants not remove any culvert pipe from the road if by doing so they would diminish the quality of the road. In their Motion for Post-Trial Relief, Defendants ask the court to direct judgment in their favor or, in the alternative, to address several issues they consider outstanding.

In support of their request for entry of judgment in their favor, Defendants contend the court failed to consider their "unity of title" defense as well as their "unclean hands" defense, and erred in giving weight to the testimony of Plaintiffs' witnesses despite contradictory testimony offered by Defendants' witnesses.

With respect to the "unity of title" defense, as such was never raised by Defendants in their Answer and/or New Matter or at trial, having been raised only in a post-trial submission which was to have been limited to a different issue,¹ the court will not now consider such. In any event, the court does not believe that "unity of title" affects a private road created by court

¹ As stated in the Opinion of July 9, 2012, Defendants were to submit a post-trial memorandum on the issue of exclusivity.

order even if it would extinguish an easement created by a grantor over other land that subsequently returns to a single owner.

With respect to the “unclean hands” defense, Defendants contend that the court misunderstood their defense; that they were arguing that Plaintiffs’ hands were “unclean” as a result of their intention to trespass on Defendants’ property, rather than as a result of their intention to trespass on Penn Tech property. Even if the court considers the potential trespass on Defendants’ property rather than the potential trespass on Penn Tech property, such still does not, in the court’s opinion, directly relate to the matter in controversy, i.e., the right to *traverse the road* across Defendants’ property. Any travels *off* the road may be addressed through separate legal channels.

As far as giving weight to the testimony of Plaintiffs’ witnesses in spite of contradictory testimony from Defendants’ witnesses, such is in the court’s purview as fact finder and not a basis for alleged error.

Defendants also ask in their motion that the court provide direction respecting certain issues Defendants consider “outstanding”: maintenance, boundaries, liability for injuries and access to keys to the other gate on the road. As these issues were not properly before the court at trial, they will not be addressed at this time.

ORDER

AND NOW, this 7th day of September 2012, for the foregoing reasons, Defendants’ motion for post-trial relief is hereby denied.

BY THE COURT,

Dudley N. Anderson, Judge

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Hon. Dudley Anderson