

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

SOUTHWESTERN ENERGY PRODUCTION COMPANY,	:	NO. 11 - 02,308
Plaintiff	:	
	:	CIVIL ACTION - LAW
vs.	:	
	:	
FOREST RESOURCES, LLC, KOCJANCIC FAMILY	:	
LIMITED PARTNERSHIP, HAROLD H. WOLFINGER,	:	
JR., ULTRA RESOURCES, INC., JACKSON CORNERS	:	
SPORTSMEN INC., NORTHERN FORESTS II, INC.,	:	
WEVCO PRODUCTION INC. and ANADARKO	:	
PETROLEUM CORPORATION, LP a/k/a ANADARKO	:	
PETROLEUM CORPORATION,	:	
Defendants as to all counts	:	
	:	
INTERNATIONAL DEVELOPMENT CORPORATION	:	
and TRUSTEES OF THE THOMAS E. PROCTOR	:	
HEIRS TRUST DATED OCTOBER 28, 1980,	:	
Defendants as to Declaratory Judgment only	:	
	:	
TRUSTEES OF THE THOMAS E. PROCTOR HEIRS TRUST,	:	
Cross-claim Plaintiff	:	
vs.	:	
	:	
FOREST RESOURCES, LLC, KOCJANCIC FAMILY	:	
LIMITED PARTNERSHIP, HAROLD H. WOLFINGER,	:	
JR., ULTRA RESOURCES, INC., JACKSON CORNERS	:	
SPORTSMEN INC., NORTHERN FORESTS II, INC., and	:	
INTERNATIONAL DEVELOPMENT CORPORATION,	:	
Cross-claim Defendants	:	
	:	
TRUSTEES OF THE THOMAS E. PROCTOR HEIRS TRUST,	:	
Counterclaim Plaintiff	:	
vs.	:	
	:	
SOUTHWESTERN ENERGY PRODUCTION COMPANY and	:	
LANCASTER EXPLORATION & DEVELOPMENT CO., LLC,	:	
Counterclaim Defendants	:	
vs.	:	
	:	
TRUSTEES OF THE MARGARET O. F. PROCTOR TRUST,	:	Motion for
Additional Defendant	:	Judgment
	:	on the Pleadings

OPINION AND ORDER

Before the court is the Motion for Judgment on the Pleadings filed by Counterclaim Defendant Lancaster Exploration and Development Company, LLC (“Lancaster”) on October 31, 2012. Argument was heard December 14, 2012.

In its Complaint, Southwestern claims ownership of the gas, oil and mineral rights under two warrants in Cogan House Township through a purchase and assignment of such and has brought the instant action to quiet title against those parties who claim an adverse interest through a 1988 Action to Quiet Title, and an action for declaratory judgment against those same parties as well as two other parties, in Southwestern’s chain of title, who claim an interest through deeds and/or reservation of rights in spite of the 1988 action. Defendant Proctor Heirs Trust (“PHT”), one of the declaratory judgment defendants, filed a Counterclaim (amended twice thereafter) against Southwestern and, by way of a Joinder Complaint, against Lancaster. Southwestern’s preliminary objections to the Counterclaim were sustained and that claim was dismissed. Lancaster answered the joinder complaint/counterclaim and filed its own counterclaim (amended once thereafter) against PHT, which PHT answered. The pleadings between those parties being closed, Lancaster now moves for judgment on the pleadings against PHT on PHT’s Counterclaim against Lancaster, as well as Lancaster’s Counterclaim against PHT.

In PHT’s counterclaim, PHT seeks a declaration that the 2005 lease and letter agreement between PHT and Lancaster are invalid under the Guaranteed Minimum Royalty Act because they require the assignment back from PHT to Lancaster of 50% of the 1/8 royalty provided for in the lease. This claim was also made by PHT against Southwestern and, as noted above, Southwestern filed

preliminary objections and such were sustained and the claim was dismissed. Lancaster now argues that that dismissal acts as the “law of the case” since the claim against Southwestern was the same as the claim against Lancaster. PHT argues that the “law of the case” doctrine does not apply since the same judge is ruling on both issues. Without deciding whether the “law of the case” doctrine applies, the court heard further argument on the merits of the issue and still believes the terms of the lease and letter agreement do not violate the Guaranteed Minimum Royalty Act. It cannot be disputed that the lease calls for the producer of the oil and gas to pay to the lessor a 1/8 royalty, as required by the Act. The letter agreement also states that the assignment back of 50% of that royalty is in exchange for Lancaster’s marketing services, as Lancaster would not be producing any oil and gas because it is not a production company. Without deciding whether the Act would be violated by such an assignment between a *producer* and a lessor, the court again holds that under these circumstances, the lease does not violate the Act and is not invalid on that basis. Therefore, Lancaster is entitled to judgment in its favor on PHT’s counterclaim against it.

In Lancaster’s counterclaim against PHT, Lancaster claims that PHT has breached the letter agreement by failing to assign 50% of its royalty interest to Lancaster.¹ Lancaster seeks judgment on that claim on the basis that PHT has made a general denial in its Answer, arguing that such constitutes an admission. In its Brief in Opposition to the motion, PHT appears to admit that it did not execute the assignment and therefore the court will focus not on whether the denial constitutes an admission but, rather, on whether Lancaster is entitled to judgment at this stage of the proceedings. PHT contends it did not execute the

agreement because it would violate the Guaranteed Minimum Royalty Act, but the court has already decided that that claim is without merit. PHT also contends the proposed assignment contains additional matters not required by the agreement, including what would constitute admissions to many of the issues contested in this lawsuit. In its Answer to the counterclaim, PHT also asserts that Lancaster was required to but did not present the proposed assignment “promptly” and that the short time which passed without their response, from their receipt of the proposal (in an email) until the counterclaim was filed, is not grounds upon which to find a “refusal”, and further that Lancaster failed in certain of its duties under the lease and/or letter agreement, and thus is itself liable for breach of the agreement. Considering the issues raised by the pleadings, the court finds that Lancaster is not entitled to judgment on this claim at this time.

ORDER

AND NOW, this 18th day of December 2012, for the foregoing reasons, Lancaster’s Motion for Judgment on the Pleadings is hereby GRANTED in part and the court finds in favor of Lancaster and against PHT on Count 1 of PHT’s Joinder Complaint² against Lancaster.

BY THE COURT,

Dudley N. Anderson, Judge

¹ According to the pleadings, in June and July 2012, Lancaster tendered a proposed assignment to PHT but PHT refused to execute such.

² The Joinder Complaint contains only one count.

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