IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

CHRISTOPHER D. DOWNS, KIMBERLY R. DOWNS and TRANSCONTINENTAL GAS PIPELINE COMPANY, LLC, Plaintiffs	:	NO. 13 - 00,519
	:	CIVIL ACTION - LAW
vs.	:	
WILLIAM F. FLYNN and BABETTE A. FLYNN, Defendants	:	Motions for Post-Trial Relief

OPINION AND ORDER

Before the court are two Motions for Post-Trial Relief, one filed by Plaintiffs on December 1, 2014, and one filed by Defendants on December 9, 2014. Argument was heard January 21, 2015.

In their Complaint, Plaintiffs assert that they own land which adjoins land of Defendants, that Transcontinental Gas Pipe Line Company proposed to and did sell to each of them certain land which ran along the back of their respective lots, that it was everyone's intention that the boundary lines of the newly-acquired land follow the boundary lines of the existing lots, and that in transferring the property Transcontinental mistakenly sold more land to Defendants and less land to Plaintiffs than had been anticipated by all parties. Plaintiffs seek reformation of the deeds based on an alleged mutual mistake. At trial, this court found only a unilateral mistake and further, that such mistake did not justify reformation of the deeds. Judgment was therefore entered in favor of Defendants, and Plaintiffs' motion for post-trial relief challenges that judgment, as well as the equitable relief provided in response to Defendants' counter-claim. Judgment on the counter-claim was entered in favor of Plaintiffs, and Defendants' motion for post-trial relief finds fault with the court's failure to award the sought-after damages.

Plaintiffs argue first that the court should have found a mutual mistake by finding that Larson Design Group was an agent of all parties to the deeds and since Larson's land surveyor made the mistake, such should be imputed to all parties. The surveyor, Mr. Weaver, testified however, that he was contacted by and contracted with a Mr. Mayer, one of the parties'

neighbors, who initiated the transactions when he inquired with Transcontinental whether he could buy one acre of ground behind his lot.[1] Thus, the court cannot find that Larson acted as an agent for all parties to the deeds. In any event, the testimony of Defendants makes it clear they were not misled by the mistake, they knew the boundary line of the add-on lots did not follow the original boundary line between their property and that of the Plaintiffs, and thus there was no mutual mistake.

Plaintiffs also argue that even if the mistake was only unilateral, as was found by the court, the deeds should nevertheless be reformed "to conform to the intention of the parties". While a deed may be reformed on grounds of mistake by one party with knowledge of the other party, Hassler v. Mummert, 364 A.2d 402 (Pa. Super. 1976), as was explained by our Supreme Court:

> A person who seeks to rectify a deed on the ground of mistake must establish, in the clearest and most satisfactory manner, that the alleged intention to which he desires it to be made conformable continued concurrently *in the minds of all parties* down to the time of its execution.

Bosler v. Sun Oil Co., 190 A.2d 718, 722 (Pa. 1937)(emphasis added). Here, Plaintiffs have failed to prove that it was Defendants' intention to have the boundary line of the add-on lot follow the boundary line of the original lots. Nothing was stated at the neighbors' meeting wherein the carving up of the land was discussed, N.T., October 27, 2014, at 25-26, and the surveyor said "it was not our role to determine where these lines needed to be. It was up to the adjacent property owners." Id. at 47. He stated that if the mistake had been brought to his attention, "[w]e would have had discussion about what the intent was." Id. at 46-47. There is no evidence, let alone "clear and satisfactory proof", that Defendants shared Plaintiffs' intent to have the boundary line of the add-on lot extend from the original boundary line. Reformation on the basis of unilateral mistake is therefore not appropriate.

Finally, Plaintiffs argue the court erred in ordering the parties to "refrain from conduct intended to annoy the other or otherwise interfere with the other's quiet enjoyment of their

[1] Transcontinental told Mr. Mayer that they would consider selling him one acre if he could get his neighbors to buy other land, as "add-on lots" to their respective properties.

property." Inasmuch as the directive merely restates their legal obligations as neighboring landowners, the court fails to see why the relief is inappropriate.

Defendants argue the court should have adopted their findings of fact and conclusions of law, rather than simply issue a decision, and should have awarded damages as requested in their counter-claim. Damages were not awarded as the proof thereof was too speculative, but the court did attempt to prevent further harm by directing the parties to refrain from certain conduct, as noted above. Defendants have offered no specific reason why findings of fact rather than an explanation on the record and a narrative explanation in the instant opinion are required, and thus the court will not address the matter further.

ORDER

AND NOW, this 10th day of February 2015, for the foregoing reasons, the motions for post-trial relief are DENIED.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Michael Zicolello, Esq.
Joseph Musto, Esq.
Gary Weber, Esq.
Hon. Dudley Anderson