

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,
PENNSYLVANIA

LAUREL HILL GAME AND FORESTRY CLUB,	:	
Plaintiff,	:	No. CV 90-01,896
vs.	:	
INTERNATIONAL DEVELOPMENT CORPORATION, <i>et al.</i>	:	
Defendants,	:	CIVIL ACTION – LAW
vs.	:	
RANGE RESOURCES-APPALACHIA, LLC and WILLIAMSON TRAIL RESOURCES, L.P.,	:	
Intervenors.	:	

OPIONION AND ORDER

AND NOW, this 18th day of September, 2023, upon consideration of the Preliminary Objections filed by Lycoming County (hereinafter the “County”) to the Complaint filed by Range Resources-Appalachia, LLC (hereinafter “Range”), as well as the Preliminary Objections filed by Range to the County’s Preliminary Objections, and after argument on the same, it is hereby ORDERED and DIRECTED as follows:

I. BACKGROUND.

This litigation has been ongoing for many years and involves numerous parties. Accordingly, the procedural and factual background outlined in this Opinion is limited to parties and matters relevant to the Motion at hand and the parties contesting it.

In 1990, Laurel Hill Game and Forestry Club (“Laurel Hill”) filed a Complaint in Quiet Title regarding the subsurface rights under the property at issue (the

"Property"). In 1992, Laurel Hill obtained a default judgment. In 2018, IDC petitioned this Court to set aside that judgment premised on defective service of original process in 1990. On May 30, 2018, this Court granted IDC's petition and struck the 1992 default judgment, finding that Laurel Hill failed to join an indispensable party and, therefore, that the Court did not have subject matter jurisdiction when it entered the 1992 judgment. Subsequently, numerous other parties have been joined in the litigation.¹ Thereafter, the parties engaged in updated pleadings, discovery and motions practice.

A. Competing claims to subsurface rights.

The respective parties primarily dispute which among them is the actual owner of the Property's subsurface rights. The answer to that question depends on the construction of the chain of title to the Property and its subsurface rights, all of which is complicated by the fact that the first relevant transactions in the chain occurred beginning in or around 1893.

Nevertheless, the parties can be aggregated into sub-groups based upon similar interpretations of the chain of title. Among those relevant here, Range Resources-Appalachia, LLC ("Range"), Laurel Hill and Williamson Trail Resources, LP ("Williamson") (collectively, the "Range Parties") contend that Laurel Hill purchased the Property in fee simple in 1919 and sold that interest to Williamson in 2009, after which Williamson leased subsurface rights to Range. Conversely, IDC and SWN (collectively, the "IDC Parties") contend that Laurel Hill purchased only the surface rights of the Property in 1919 and that IDC obtained the subsurface rights through predecessors in interest who obtained the

¹ At present, there are more than five hundred parties involved in this litigation.

subsurface rights through a series of conveyances and transfers. Meanwhile, the Thomas E. Proctor Heirs Trust and Margaret O.F. Proctor Trust (collectively, “Proctor”) maintains that it is the actual owner of the subsurface rights, by virtue of reservation of the subsurface rights to Tract 1 of the Property in an 1894 conveyance by Thomas E. Proctor, Proctor’s predecessor in interest. The County’s claim to ownership arises by virtue of a 1922 tax sale of unseated lands implicating the property at issue here. There was no purchaser at the 1922 sale, so under law applicable at the time, the County purportedly became owner of the Property, including its subsurface rights. As there has been no conveyance out of the County, the County owns, or at least has a credible claim to own, the Property.

On June 24, 2022, this Court issued an Opinion and Order in this case on cross-motions for summary judgment filed by IDC and Range. At Proctor’s request, the Court limited its holding to issues affecting IDC and Range and addressed only the rights of the filing parties, while leaving adjudication of the rest of the case for another day. The dispute between IDC and Range concerned interpretation of the deeds in their respective chains of title and particularly implicated interpretation of a 1919 deed purporting to convey some interest in the Property from Central Pennsylvania Lumber Company (“CPLC”)² to Laurel Hill.³ The parties disputed whether the CPLC had reserved to itself subsurface rights in the Property. This Court concluded that it had and entered summary judgment in favor of IDC and against Range.

On June 27, 2023, the Court entered an Order on IDC’s Motion for Summary Judgment against Proctor. IDC asserted that Proctor’s ownership

² IDC’s predecessor in interest as purported owner of subsurface rights in and under the Property.

³ Range’s predecessor in interest as purported owner of subsurface rights in and under the Property

interest in the subsurface rights of the Property was extinguished when IDC's predecessor in interest purchased Tract 1 of the Property at a 1906 tax sale of unseated lands. The Court concluded that Proctor's interest was divested and that IDC's claim to the subsurface rights was superior to Proctor's.⁴ In its Opinion, the Court explicitly stated that it was not making any ruling on the County's ownership interest, if any, in the Property.⁵

B. Procedural Background.

On May 1, 2019, Range filed a Complaint naming various parties as Defendants. In its Complaint, Range asserts that it is the owner of subsurface rights to the property at issue here (hereinafter the "Property"). Faced with claims that it had failed to join an indispensable party,⁶ Range filed a Complaint on March 28, 2023 joining the County and certain other parties in this litigation.⁷ On March 30, 2023, Laurel Hill Game and Forestry Club, Range's predecessor in interest, joined Ranges Complaint.⁸ On April 21, 2023, the County filed Preliminary Objections to Range's Complaint in the nature of a Demurrer to All Counts of the

⁴ Opinion and Order, issued June 27, 2023.

⁵ *Id.*, p.5.

⁶ Failure to join an indispensable party is a non-waivable defect that deprives the trial court of subject matter jurisdiction of the dispute. *Northern Forests II, Inc. v. Keta Realty Co.*, 130 A.3d 19, 28-29 (Pa. Super. 2015) (citing *Sabella v. Appalachian Dev. Corp.*, 103 A.3d 83, 90 (Pa. Super. 2014)); see also *Huston v. Campanini*, 346 A.2d 258, 259 (Pa. 1975) (citations omitted) ("[I]f all necessary and indispensable parties are not parties to an action in equity, the court is powerless to grant relief"). "A party is indispensable 'when his or her rights are so connected with the claims of the litigants that no decree can be made without impairing those rights.'" *Northern Forests II, Inc. v. Keta Realty Co.*, 130 A.3d at 19, 29 (Pa. Super. 2015) (quoting *Oman v. Mortgage I.T.*, 118 A.3d 403, 406 (Pa. Super. 2015) (citing *City of Phila. v. Commonwealth*, 838 A.2d 566, 581 (Pa.2003), quoting *Sprague v. Casey*, 550 A.2d 184, 189 (Pa.1988))). If Lycoming County owns all or has any rights in any portion of the Property, any decision concerning whether another party has an ownership interest in all or some of the Property potentially impairs the County's rights in it. As the County has a credible claim to ownership of the subsurface rights to the Property, the Court concludes it is an indispensable party to any litigation concerning ownership of those rights.

⁷ Intervenor Range Resources Appalachia, LLC's Complaint Against Pennlyco, Ltd., Lycoming County, Central Pennsylvania Lumber Company and Elk Tanning Company, filed March 28, 2023.

⁸ Joinder of Laurel Hill Game and Forestry Club to Complaints of Intervenor Range resources-Appalachia, LLC, filed March 30, 2023.

Complaint.⁹ On May 18, 2023, the County filed a Brief in Support of its Preliminary Objections.¹⁰ On June 2, 2023, Range filed its Preliminary Objections and Response to the County's Preliminary Objections,¹¹ as well as a Brief in Support thereof.¹² The Court heard argument on the County's Preliminary Objections and Range's Preliminary Objections thereto on June 20, 2023, and both matters are now ripe for resolution.

II. LAW AND ANALYSIS.

A preliminary objection in the nature of a demurrer may be filed to any pleading.¹³ “[A] demurrer is a preliminary objection to the legal sufficiency of a pleading and raises questions of law.”¹⁴

[A] demurrer is properly granted where the contested pleading is legally insufficient.... “Preliminary objections in the nature of a demurrer require the court to resolve the issues solely on the basis of the pleadings; no testimony or other evidence outside of the complaint may be considered to dispose of the legal issues presented by the demurrer.” ... All material facts set forth in the pleading and all inferences reasonably deducible therefrom must be admitted as true.¹⁵

⁹ Defendant Lycoming County's Preliminary Objections to Intervenor Range Resources Appalachia, LLC's Complaint Against Pennlyco, Ltd., Lycoming County, Central Pennsylvania Lumber Company and Elk Tanning Company, filed April 21, 2023.

¹⁰ Defendant Lycoming County's Brief in Support of Preliminary Objections to Intervenor Range Resources Appalachia, LLC's Complaint Against Pennlyco, Ltd., Lycoming County, Central Pennsylvania Lumber Company and Elk Tanning Company, filed May 18, 2023.

¹¹ Range Resources-Appalachia, LLC's Preliminary Objections and Response to Defendant Lycoming County's Preliminary Objections to Intervenor Range Resources Appalachia, LLC's Complaint Against Pennlyco, Ltd., Lycoming County, Central Pennsylvania Lumber Company and Elk Tanning Company, filed June 2, 2023.

¹² Range Resources-Appalachia, LLC's Brief in Support of Preliminary Objections and Response to Defendant Lycoming County's Preliminary Objections to Intervenor Range Resources Appalachia, LLC's Complaint Against Pennlyco, Ltd., Lycoming County, Central Pennsylvania Lumber Company and Elk Tanning Company, filed June 2, 2023.

¹³ Pa. R.C.P. 1028(a)(4): “Preliminary objections may be filed by any party to any pleading ... [for] legal insufficiency of a pleading (demurrer).”

¹⁴ *Matteo v. EOS USA, Inc.*, 292 A.3d 571, 576 (Pa. Super. 2023) (quoting *Laref v. Wilson*, 279 A.3d 56, 58 (Pa. Super. 2022)).

¹⁵ *Weiley v. Albert Einstein Medical Center*, 51 A.3d 202, 208 (Pa. Super. 2012) (quoting *Cardenas v. Schober*, 783 A.2d 317, 321-22 (Pa. Super. 2001) (citing Pa. R. Civ. P. 1028(a)(4))).

Since a preliminary objection in the nature of a demurrer tests the legal sufficiency of a pleading, it will be granted only when “on the facts averred, the law says with certainty that no recovery is possible.”¹⁶

The County’s Objection to Range’s Complaint is based upon this Court’s own June 24, 2022 Opinion and Order finding that Range does not have a valid interest in the Property.¹⁷ Specifically, Range’s interest in the Property’s subsurface estate arises out of leases it has with Laurel Hill and Williamson. Williamson obtained its interest by conveyance from Laurel Hill, which, in turn, obtained its interest *via* a 1919 deed purporting to convey some interest in the Property from CPLC to Laurel Hill. In its June 24, 2022 Opinion and Order, this Court found that CPLC only conveyed surface rights in the Property to Laurel Hill.¹⁸ Accordingly, Laurel Hill had no interest in the subsurface rights to convey to Williamson and neither had any such interest to convey to Range.

Essentially, the County asserts that because Range has no interest in the Property, its claims against the County are legally insufficient.¹⁹ The County bases its objection on the law of the case doctrine²⁰ and notes that “[a]s a general proposition, this Court should not revisit questions it has already decided.”²¹ The law of the case doctrine typically requires a judge to “adhere[] to prior decisions in the same case by a higher court or by another judge of coordinate jurisdiction,”²² a trial judge generally should adhere to prior decisions that he has made in the same

¹⁶ *Vattimo v. Lower Bucks Hospital, Inc.*, 465 A.2d 1231, 1232 (Pa. 1983) (citing *Hoffman v. Misericordia Hospital of Philadelphia*, 267 A.2d 867 (Pa. 1970)).

¹⁷ County’s Preliminary Objections, ¶¶ 19-21.

¹⁸ Opinion and Order, issued June 24, 2022.

¹⁹ County’s Preliminary Objections, ¶¶ 19-21.

²⁰ County’s Brief in Support of Preliminary Objections, pp. 4-6.

²¹ *Pa. State Ass’n of County Com’rs v. Commonwealth*, 52 A.3d 1213, 1230 (Pa. 2012).

²² *Bienert v. Bienert*, 168 A.3d 248, 254 (Pa. Super. 2017) (citing *Commonwealth v. Starr*, 664 A.2d 1326, 1331-32 (Pa. 1995)).

case.²³ Although a judge remains free to reconsider his prior rulings, policy considerations favor maintenance of consistency and uniformity of decisions, and parties should not be prejudiced by relying on a court's prior decisions.²⁴

Range preliminarily objects to the County's Preliminary Objections, asserting that the law of the case doctrine is an affirmative defense and, therefore, not a proper basis for a preliminary objection to Range's Complaint.²⁵ Range also points out that the Court's Order concerning Range's interest in the Property, or lack thereof, is an interlocutory order²⁶ and, therefore, may be appealed.²⁷ As such, Range contends, the County's preliminary objections should be denied.

As a general matter, a party who files an action in quiet title must recover on the strength of his own title rather than on the weakness of his opponents' title.²⁸ This does not mean, however, that the claimant must establish exclusive ownership as to *all* others. "[A]s in other cases, [he] need not go further than to

²³ *Bienert, supra*, 168 A.3d at 254.

²⁴ *Id.*, at 254-55.

²⁵ Range's Preliminary Objections to the County's Preliminary Objections, pp. 1-2 (citing Pa. R. Civ. P. 1030; *Step Plan Servs., Inc. v. Koresko*, 12 A.3d 401, 416 n.3 (Pa. Super. 2010) (noting that law of the case doctrine is more in the nature of an affirmative defense than an objection); *DeMary v. Latrobe Printing & Pub. Co.*, 765 A.2d 758, 761-62 (Pa. Super. 2000) (holding that affirmative defenses generally are not properly raised by preliminary objection)).

²⁶ An "interlocutory order" is an interim or temporary order that does not resolve the whole controversy. *Black's Law Dictionary* (11th ed. 2019). In contrast, pursuant to Rule 341, Pennsylvania Rules of Appellate Procedure, "a final order can be one that disposes of all the parties and all the claims, is expressly defined as a final order by statute, or is entered as a final order pursuant to the trial court's determination under Rule 341(c)." *In re Estate of Cella*, 12 A.3d 374, 378 (Pa. Super. 2010). Under Pennsylvania law, "an appeal may be taken from: (1) a final order or an order certified as a final order (Pa. R.A.P. 341); (2) an interlocutory order as of right (Pa. R.A.P. 311); (3) an interlocutory order by permission (Pa. R.A.P. 312, 1311, 42 Pa. C.S. § 702(b)); or (4) a collateral order (Pa. R.A.P. 313)." *Stahl v. Redcay*, 897 A.2d 478, 485 (Pa. Super. 2006), *alloc. denied*, 918 A.2d 747 (Pa. 2007) (quoting *Pace v. Thomas Jefferson University Hosp.*, 717 A.2d 539, 540 (Pa. Super. 1998) (internal citations omitted)).

²⁷ Range's Brief in Support of Preliminary Objections, pp. 1-2.

²⁸ *Albert v. Lehigh Coal & Nav. Co.*, 246 A.2d 840, 843 (Pa. 1968) (citing *Cox's Inc. v. Snodgrass*, 92 A.2d 540, 541-42 (Pa. 1957); *Blumner v. Metropolitan Life Ins. Co.*, 66 A.2d 245, 248 (Pa. 1949); *Ransberry v. Brodhead's Forest & Stream Ass'n*, 174 A. 97, 98 (Pa. 1934)).

make out a prima facie case."²⁹ In other words, the title claimant need not show that his title claim is superior to every other potential claimant's. Instead, he need only show that his title claim is superior to the claim of his current opponent's. Put another way, an action in quiet title tests the title claim of a specific plaintiff against that of a specific defendant rather than against the rest of the world.

The Court denies the County's Preliminary Objections (1) because the County is a necessary party to this litigation regardless of Range's interest, if any, in the Property's subsurface rights,³⁰ (2) because the prior Order of this Court finding that IDC's claim to the subsurface rights is superior to Range's claim thereto is an interlocutory order that may be appealed once this case is finally resolved,³¹ and (3) because it therefore behooves all concerned in this litigation to obtain a ruling relative to Range's interest, if any, in the subsurface rights, as against the County's interest therein, if any. Because the Court has denied the County's Preliminary Objections to Ranges' Complaint, Range's Preliminary Objections to the County's Preliminary Objections are rendered moot and will be dismissed as such.

III. CONCLUSION.

For the reasons explained above, it is hereby ORDERED and DIRECTED as follows:

1. Defendant Lycoming County's Preliminary Objections to Intervenor Range Resources Appalachia, LLC's Complaint Against Pennlyco, Ltd., Lycoming County, Central Pennsylvania Lumber Company and Elk Tanning Company, filed April 21, 2023, are DENIED.

²⁹ *Hallman v. Turns*, 482 A.2d 1284, 1287 (Pa. Super. 1984) (quoting *Golden v. Ross*, 186 A. 249, 249 (Pa. Super. 1936)); see also *Moore v. Commw., Dep't of Environmental Resources*, 566 A.2d 905, 907 (Pa. Commw. 1989).

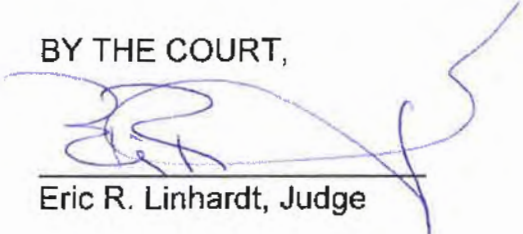
³⁰ See, *supra*, n.6.

³¹ See, *supra*, nn. 26-27.

2. Intervenor Range Resources-Appalachia, LLC's Preliminary Objections to Defendant Lycoming County's Preliminary Objections to Intervenor Range Resources Appalachia, LLC's Complaint Against Pennlyco, Ltd., Lycoming County, Central Pennsylvania Lumber Company and Elk Tanning Company, filed June 2, 2023, are DENIED as moot.
3. Defendant Lycoming County shall file an answer to Intervenor Range Resources Appalachia, LLC's Complaint Against Pennlyco, Ltd., Lycoming County, Central Pennsylvania Lumber Company and Elk Tanning Company within twenty (20) days after entry of this Order.

IT IS SO ORDERED.

BY THE COURT,


Eric R. Linhardt, Judge

ERL/bel

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