

BARRY J. HIGGINS

v.

LEO J. HIGGINS et al.

Argued June 15, 2011
Decided July 14, 2011

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, GORMAN, and JABAR, JJ.

MEMORANDUM OF DECISION

Barry J. Higgins appeals, and Leo J. Higgins cross-appeals, from a judgment entered in the Superior Court (Penobscot County, *Hjelm, J.*) following a jury-waived trial. In its judgment, the court (1) concluded that Barry's claim for an accounting of partnership assets was barred by the statute of limitations, *see* 14 M.R.S. § 752 (2010); 31 M.R.S. § 323 (2006);¹ (2) found that Leo illegally evicted Barry from an apartment owned by Leo, and awarded Barry \$250 in damages, *see* 14 M.R.S. § 6014 (2010); and (3) ordered that certain personal property be returned to Barry.

Contrary to Barry's contentions, (1) the court properly determined that his claim for an accounting of partnership assets was time-barred, *see* 14 M.R.S. § 752; 31 M.R.S. § 323; *Degenhardt v. EWE Ltd. P'ship*, 2011 ME 23, ¶ 7, 13 A.3d 790, 793 (stating that statutory interpretation is subject to de novo review, while factual findings are reviewed for clear error); and (2) the evidence does not compel a finding that Barry was entitled to more than \$250 in damages for his

¹ Title 31 M.R.S. § 323 (2006) has been repealed. P.L. 2005, ch. 543, § A-1 (effective July 1, 2007).

claims of conversion and illegal eviction, *see* 14 M.R.S. § 6014; *Baillargeon v. Estate of Daigle*, 2010 ME 127, ¶ 20, 8 A.3d 709, 715; *Treadwell v. J.D. Constr. Co.*, 2007 ME 150, ¶ 25, 938 A.2d 794, 800; *Reardon v. Lovely Dev., Inc.*, 2004 ME 74, ¶¶ 5-8, 852 A.2d 66, 68-69.²

Because the record supports a finding that Leo illegally evicted Barry from the property, *see* 14 M.R.S. §§ 6001-6016 (2010), we are not persuaded by the arguments raised in Leo's cross-appeal.

The entry is:

Judgment affirmed.

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² We do not address Barry's argument that the court's judgment constituted an injunction subject to immediate enforcement pursuant to M.R. Civ. P. 62(a). Regardless of the nature of the court's judgment, the order directing the return of Barry's property will become effective upon issuance of this mandate. *See* M.R. Civ. P. 62; M.R. App. P. 14.