

JAY L. BOSCHETTI

v.

GRETCHEN K. ANDERSON

Submitted on Briefs April 27, 2011

Decided May 17, 2011

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

MEMORANDUM OF DECISION

Gretchen K. Anderson appeals from a judgment entered in the District Court (South Paris, *Cote, J.*) in an action to resolve a boundary dispute. The judgment was entered pursuant to M.R. Civ. P. 53, and constituted the acceptance and entry of the report of a referee appointed to adjudge the dispute.

Contrary to Anderson's contentions, the referee's findings of fact and conclusions of law, as adopted by the court, were not clearly erroneous. *See Warren v. Warren*, 2005 ME 9, ¶ 19, 866 A.2d 97, 101; *Hennessy v. Fairley*, 2002 ME 76, ¶ 21, 796 A.2d 41, 48. Accordingly, the determination of the boundary between the properties based on an assessment that a latent ambiguity existed in the deeds, and the application of the rules of construction to ascertain the appropriate boundaries, was appropriate. *See id.*; *Milligan v. Milligan*, 624 A.2d 474, 478 (Me. 1993).

In addition, the conclusion that Boschetti had also established ownership of the property pursuant to adverse possession, *see* 14 M.R.S. § 815 (2010), was supported by credible evidence in the record. *See Hennessy*, 2002 ME 76, ¶ 25, 796 A.2d at 49. And, the determination that the doctrine of acquiescence also entitled Boschetti to a portion of the disputed property is supported by clear and

convincing evidence. *See Anchorage Realty Trust v. Donovan*, 2004 ME 137, ¶ 12, 880 A.2d 1110, 1112.

Boschetti requests that this Court modify the judgment regarding the northeast boundary of the parcel. However, in the absence of a cross-appeal, we treat this issue as unpreserved. M.R. App. P. 2(c)(3); *see Town of Mount Desert v. Smith*, 2000 ME 88, ¶ 7, 751 A.2d 445, 447-448.

The entry is:

Judgment affirmed.

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