

TIMBERVEST PARTNERS, L.P.

v.

GEORGE O. HAYES et al.

Argued: May 9, 2012

Decided May 31, 2012

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

#### MEMORANDUM OF DECISION

Timbervest Partners, L.P. appeals from the judgment of the Superior Court (Oxford County, *Clifford, J.*) granting summary judgment in favor of George O. Hayes and Arlene J. Hayes. After granting partial summary judgment against Timbervest on its contention that it is entitled to an easement pursuant to 33 M.R.S. § 460 (2011), the court held a bench trial on Timbervest's prescriptive easement claims. At the close of the trial, the court reconsidered its summary judgment ruling pursuant to M.R. Civ. P. 54(b)(1) and declined to revise its determination that section 460 does not govern this case. Timbervest then appealed the court's summary judgment ruling but did not appeal the court's denial of its prescriptive easement claims. On appeal, Timbervest concedes that the Hayeses own title to the centerline of the discontinued Bird Hill Road.

Contrary to Timbervest's contention, Timbervest did not acquire an easement over the Hayes's property because section 460 is not applicable. *See Belfast Water Dist. v. Larrabee*, 570 A.2d 828, 829-30 (Me. 1990). Alternatively, even if section 460 applied to this case, Timbervest would not be entitled to an easement pursuant to that section because Timbervest failed to prove that the Twaddle Lot is landlocked, and therefore an easement of access is not

necessary. *See Amodeo v. Francis*, 681 A.2d 462, 465 (Me. 1996).

The entry is:

Judgment affirmed.

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**On the briefs and at oral argument:**

Frank K.N. Chowdry, Esq., Jensen Baird Gardner & Henry, Portland, for appellant Timbervest Partners, L.P.

Aaron K. Baltes, Esq., Norman, Hanson, & DeTroy, LLC, Portland, for appellees George O. Hayes and Arlene Hayes