

ROBERT G. SWAN et al.

v.

ROBERTA D. LOCHTE-JONES et al.

Submitted on Briefs September 29, 2016
Decided October 6, 2016

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

MEMORANDUM OF DECISION

Robert and Deborah Swan appeal from a judgment of the Superior Court (Hancock County, *R. Murray, J.*) on the Swans' complaint and a counterclaim for declaratory judgment, through which the parties sought to quiet title and the Swans sought to establish an easement by deed or by prescription.

Contrary to the Swans' contentions, the evidence supports the court's determination that the Swans had failed to prove by a preponderance of the evidence the elements needed to establish an easement by deed or a private prescriptive easement,¹ *see Androkites v. White*, 2010 ME 133, ¶¶ 12-14, 10 A.3d 677; *Lyons v. Baptist Sch. of Christian Training*, 2002 ME 137, ¶ 15, 804 A.2d 364, and the evidence did not compel a contrary conclusion, *see Jordan v. Shea*, 2002 ME 36, ¶ 22, 791 A.2d 116. The court based its findings on competent evidence in the record and did not commit clear error in reaching those findings, *see Stickney v. City of Saco*, 2001 ME 69, ¶ 53,

¹ To the extent that the Swans attempted to raise a claim of a public easement, the trial court did not err in rejecting that claim.

770 A.2d 592; the court did not misinterpret deed language, *see Matteson v. Batchelder*, 2011 ME 134, ¶ 16, 32 A.3d 1059 (“The scope of a party’s easement rights must be determined from the unambiguous language on the face of the deed.”). Further, the court did not commit obvious error by awarding costs to Roberta D. Lochte-Jones et al., *see Landis v. Hannaford Bros.*, 2000 ME 111, ¶ 13, 754 A.2d 958 (holding that an improperly awarded cost was not preserved for appeal when the challenging party had not specifically objected to its inclusion).

The entry is:

Judgment affirmed.

On the briefs:

Ferdinand A. Slater, Esq., Ellsworth, for appellants Robert and Deborah Swan

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