

THEODORE BARNES

v.

JOEDY LABONVILLE et al.

Submitted on Briefs September 29, 2016  
Decided October 18, 2016

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

#### MEMORANDUM OF DECISION

Joedy and Richard Labonville appeal from a judgment of the Superior Court (Waldo County, *R. Murray, J.*) granting Barnes's ejectment claim and the Labonvilles' counterclaim for betterments.

A plaintiff in a real action at law may recover an estate in real property upon a showing that (1) she was entitled to an estate in the property at issue and (2) at the time she commenced the action she had a right of entry onto the property. 14 M.R.S. § 6701 (2015); *Strout v. Gammon*, 629 A.2d 43, 45 (Me. 1993).

A defendant who has been dispossessed of property in a real action, on the other hand, may counterclaim for the value of improvements she made on the property during her tenancy. 14 M.R.S. § 6958 (2015). In assessing a counterclaim for betterments, the court will limit a defendant's recovery to the value of only those improvements that were "judicious and proper under the circumstances." *Id.* at § 6959 (2015).

We discern no error of law or abuse of discretion in the Superior Court's judgment. Contrary to the Labonvilles' contentions, the court properly concluded that Barnes had a possessory interest in and a right of entry upon the property in question, and that only a portion of the improvements the Labonvilles made while they occupied the property were "judicious and proper under the circumstances," and consequently limited their recovery on their betterments counterclaim. For these reasons, we affirm.

The entry is:

Judgment affirmed.

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**On the briefs:**

Joedy and Richard Labonville, appellants pro se

Theodore Barnes did not file a brief