

JANET EMERY et al.

v.

LAURA BILLINGS et al.

Submitted on Briefs April 10, 2018
Decided April 17, 2018

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

MEMORANDUM OF DECISION

Laura and Edward Billings appeal from a judgment entered by the Superior Court (Knox County, *Mallonee, J.*) following a nonjury trial on Janet and Hoyt Emery's complaint for declaratory judgment, finding that the Emerys had established a prescriptive easement over a portion of the Billingses' property known as the Doe Mill Road. The Billingses contend that the evidence does not support the prescriptive easement finding and that, as a matter of law, the Emerys cannot claim a prescriptive easement over property Janet Emery conveyed by warranty deed to the Billingses' predecessors-in-title more than twenty years before this dispute arose.¹

Following the trial court's decision, the Billingses did not request further findings, M.R. Civ. P. 52, and they have not provided to us a transcript of the

¹ The Billingses also assert that the Emerys' claim was barred because their predecessors-in-title acquired title from Janet Emery. An after-acquired title claim might bar the easement by necessity claim asserted in the Emerys' complaint, *see Shrader-Miller v. Miller*, 2004 ME 117, ¶ 14, 855 A.2d 1139, but the trial court did not base its decision on the easement by necessity claim.

trial. Accordingly, we must assume that the record supports the trial court's findings. *Rainbow v. Ransom*, 2010 ME 22, ¶ 3, 990 A.2d 535 (when appellant fails to provide a transcript, we must assume that the record would support the trial court's factual findings and evidentiary rulings). The trial court's findings support the determination that the Emerys proved, by a preponderance of the evidence, each of the elements necessary to establish a prescriptive easement. *See Androkites v. White*, 2010 ME 133, ¶ 14, 10 A.3d 677. The fact that the Billingses acquired the property by warranty deed does not change the result, because the trial court found that the prescriptive easement was established by events that occurred in the twenty-one years after Janet Emery conveyed the property to the Billingses' predecessors-in-title.

The entry is:

Judgment affirmed.

James W. Strong, Esq., Thomaston, for appellants Laura and Edward Billings

Jeremiah W. Rancourt, Esq., Law Office of Joseph M. Baldacci, Bangor, for appellees Janet and Hoyt Emery