

GUY M. PILOTE et al.

v.

PHILLIP G. MURPHY SR.

Submitted on Briefs October 11, 2018
Decided October 18, 2018

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

MEMORANDUM OF DECISION

Phillip G. Murphy Sr. appeals from a civil judgment entered by the Superior Court (Androscoggin County, *Warren, J.*), following a bench trial, which awarded Guy and Susan Pilote compensatory damages on their complaint alleging that Murphy had failed to construct a common driveway in accordance with an established plan. Contrary to Murphy's contention, the court did not clearly err in finding that (1) the Pilotes had the right to enforce Murphy's agreement to build the driveway, which they had obtained by assignment from their predecessors-in-title; and (2) the obligation to build the driveway was collateral to the conveyance of the land to be serviced by the driveway, and therefore had not merged into the deed Murphy gave to the Pilotes' predecessors-in-title. *See Testa's, Inc. v. Coopersmith*, 2014 ME 137, ¶ 8, 105 A.3d 1037; *Waterville Indus., Inc. v. Fin. Auth. of Me.*, 2000 ME 138, ¶ 16, 758 A.2d 986; *Goldberg Realty Grp. v. Weinstein*, 669 A.2d 187, 191 (Me. 1996); *Wimmer v. Down E. Props., Inc.*, 406 A.2d 88, 91 (Me. 1979).

Furthermore, upon reviewing the record we conclude that the evidence was sufficient to support both the court's finding that the ditching Murphy constructed to support the driveway did not comply with the established plan,

and its damages award. *See Coastal Ventures v. Alsham Plaza, LLC*, 2010 ME 63, ¶ 19, 1 A.3d 416

The entry is:

Judgment affirmed.

John W. Conway, Esq., Linnell, Choate & Webber, Auburn, for appellant Phillip G. Murphy, Sr.

Jason Dionne, Esq., Isaacson & Raymond, P.A., Lewiston, for appellees Guy Pilote and Susan Pilote

Androscoggin County Superior Court docket number CV-2011-156
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