

PENELOPE MCHATTEN et al.

v.

PAUL F. BALLERSTEIN et al.

Submitted on Briefs October 21, 2020
Decided November 3, 2020

Panel: MEAD, GORMAN, JABAR, HUMPHREY, HORTON, and CONNORS, JJ.

MEMORANDUM OF DECISION

Paul F. Ballerstein and Goldie E. Ballerstein appeal from a declaratory judgment entered in the Superior Court (Aroostook County, *Hunter, A.R.J.*) establishing the location of a common boundary in favor of Penelope McHatten, Susan P. Hafford, and Kenneth B. Hafford Jr.¹

Contrary to the Ballersteins' contentions, the court's factual findings and its conclusion that an ambiguity existed in the deeds were not erroneous. *See Wells v. Powers*, 2005 ME 62, ¶¶ 2-3, 873 A.2d 361; *Milligan v. Milligan*, 624 A.2d 474, 477-78 (Me. 1993). Accordingly, the court's determination of the location of the common boundary on the face of the earth, based on its acceptance of the expert witness's testimony, was appropriate.² *See Grondin v. Hanscom*, 2014 ME 148, ¶¶ 8-10, 106 A.3d 1150.

¹ On October 8, 2020, a suggestion of death was filed pursuant to M.R. Civ. P. 25(a) indicating that Kenneth B. Hafford Jr. died during the pendency of this appeal.

² Because the trial court declined to reach McHatten's and the Haffords' claims of adverse possession and title by acquiescence, we do not address the Ballersteins' remaining arguments.

Although our opinion establishes with finality the location of the parties' common boundary, it is now the parties' prerogative to define the bounds of their neighborly relations. Thus, we conclude with these words of "encouragement" from the trial court: "[T]he parties may benefit from reflecting on whether the value of a few feet, perhaps only a few inches, of disputed property that is of little economic value is really greater than the personal cost that each [has paid in pursuit of this litigation]. The opportunity that each party has . . . to reach a final result they could define for themselves remains."

The entry is:

Judgment affirmed.

Paul F. Ballerstein and Goldie E. Ballerstein, appellants pro se

Luke M. Rossignol, Esq., Bemis & Rossignol, LLC, Presque Isle, for appellees
Penelope McHatten, Susan P. Hafford, and Kenneth B. Hafford Jr.