

RICHARD B. HUTCHINSON et al

v.

GERMAINE (BERGENDAHL) CARRIER

Submitted on Briefs October 14, 2009

Decided October 15, 2009

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, MEAD, and GORMAN, JJ.

MEMORANDUM OF DECISION

Richard and Jeanine Hutchinson appeal from a summary judgment in favor of Germaine (Bergendahl) Carrier entered in the District Court (Farmington, *Stanfill, J.*) on the Hutchinsons' complaint for declaratory judgment, injunction, and damages related to their claim of a right-of-way over Carrier's land, and on Carrier's counterclaim for declaratory judgment, injunction, and to quiet title. Contrary to the Hutchinsons' contention, Carrier's statement of material facts was properly supported with record citations to attested deeds and a town plan, *see* M.R. Civ. P. 56(h)(1); M.R. Evid. 803(14), 902(4), the deeds in this record establish that the Hutchinsons do not own an easement by deed, *see ALC Dev. Corp. v. Walker*, 2002 ME 11, ¶ 18, 787 A.2d 770, 776, and this record demonstrates that the Hutchinsons failed to use the right-of-way for a continuous period of twenty years to establish an easement by prescription, *see S.D. Warren Co. v. Vernon*, 1997 ME 161, ¶¶ 6-7, 9, 697 A.2d 1280, 1282, 1283; *McGray v. Lamontagne*, 623 A.2d 161, 162 (Me. 1993). Finally, the court did not abuse its discretion in denying the Hutchinsons' motion to reconsider based on new evidence. *See Shaw v. Shaw*, 2003 ME 153, ¶¶ 7, 8, 839 A.2d 714, 716; M.R. Civ. P. 7(b)(5).

The entry is:

Judgment affirmed.

Attorneys for Richard and Jeanine Hutchinson:

Edmond J. Bearor, Esq.
Robert W. Laffin, Esq.
Rudman & Winchell, LLC
84 Harlow Street
PO Box 1401
Bangor, Maine 04402-1401

Attorney for Germaine Carrier:

Frank M. Underkuffler, Esq.
116 Main Street
Farmington, Maine 04938