

**SAINT REGIS MOHAWK TRIBAL COURT
IN AND FOR THE SAINT REGIS MOHAWK TRIBE**

**LORRAINE GAMBILL, RICHARD SKIDDERS,
MATTHEW SKIDDERS & HONEY SKIDDERS,**

Claimants,

v.

Case No.: 18-LND-00002

DECISION AND ORDER

**JULIA BACK, KATHLEEN PAPINEAU,
JULIANNE SKIDDERS, SARAH LEE
SKIDDERS, SAMANTHA SKIDDERS,
LARRI-LEE SKIDDERS, JEREMY SCOTT
McDONALD, MORRIS N. OAKES,
LAZORE & BLAKE CARL TARBELL,**

Respondents.

Potter, J. Claimants filed a land dispute claim on June 20, 2018; respondents moved to dismiss the claim; plaintiffs seek to file an amended complaint; respondents object. The parties appeared before the Court and made oral argument. The Court required the parties to file position papers/memoranda with respect to their arguments and Tribal Council Resolution 99-21. In filing such documents, claimants have filed a statement of facts and their proposed amended complaint with several exhibits attached; respondents have filed a memorandum of law and an amended answer. The Court accepts the amended complaint and amended answer. After a review of such documents, the Court found that there were several documents that would be necessary for, and/or helpful to, the Court in determining the issues before it. It, therefore, made an Order on January 3, 2019, requiring the parties and the Tribal Clerk's office to produce certain documents on or before January 24, 2019. The parties complied timely producing the required documents. However, the Tribal Clerk's office has advised in writing that "upon examination of the (SRMT's) records the requested documents of copies of minutes of all Tribal Council meetings held between January 1, 1993, and 2004 wherein

Tribal Council considered the topic which is the subject of this proceeding. . . could not be located.” The Clerk’s office did produce a copy of “the one” use and occupancy deed issued between 1978 and 2004 with respect to the property in question dated March 25, 2003, from “The Saint Regis Mohawk Tribe on behalf of the Estate of the Late Lawrence Skidders” to “Kathleen Skidders and her sisters, Julianne, Larri Lee, Samantha and Sarahlee. . . .” Said deed is recorded in [REDACTED] land records of SRMT.¹

After a review of all pleadings and documents before it, the Court finds in favor of respondents.

Factual History

Claimants are the surviving children of Marita Skidders who died October 30, 2013, and the surviving siblings of Lawrence Skidders who died February 3, 1993. Respondent, Julia Back a.k.a. Julia Back Skidders, is the surviving common-law wife of Lawrence Skidders.² Respondents, Kathleen Papineau, Julianne Skidders, Sarah Lee Skidders, Samantha Skidders and Larri-Lee Skidders are the surviving children of Lawrence Skidders and Julia Back Skidders. Respondents, McDonald, Oakes, Thompson, Lazore and Tarbell, are interested parties herein by reason of having received conveyances at various times of portions of the premises in question.

The property which is the subject of this proceeding, known [REDACTED] was originally owned by Margarette Hopps and her husband Peter Hopps. Margarette Hopps died in 1970, survived by her husband. Peter Hopps died in 1974. The Hopps had no children. At the time of Peter Hopps’ death, it is alleged that his niece, Marita Skidders, was living with, and taking care of Peter Hopps. The Court will accept that as fact.

¹ The deed is a part of the pleadings herein and is available to all parties

² See February 25, 1993, statement from the SRMT Tribal Clerk whereby the SRMT Council recognized the marriage of Lawrence Skidders and Julia Back Skidders under McKinney’s Indian Law, and authorized Ms. Back a.k.a. Skidders to legally use the name of Julia Back Skidders. The document is a part of the pleadings herein and all parties have access thereto

The next formal “event” with respect to the Hopps property occurred January 11, 1978, when the Mohawk Tribal Council³ issued a “Settlement, M. & P. Hopps Estate” stating that “(a)fter several meetings with the heirs of both parties on the Hopps Estate, and there being no evidence of any Last Will and Testament by either party as to disposition of (their estates), (l)t was determined by the Tribal Council that Ms. Marita Skidders, after showing evidence that she (supported and comforted Mr. Hopps until his demise) has the use of said property until her death.” Said settlement also provided that the property “may not be sold, or transferred by will to anyone else in this time frame, . . (and) after (Marita’s) passing, the council will then make another determination as to the fair and proper disposal of said property.”⁴

Marita Skidders apparently entered into possession of the said property. On April 15, 1979, Marita Skidders signed a “Guardianship of Property” document wherein she, as “rightful or legal owner of the property”⁵ placed the property “under guardianship of the Longhouse Council of Chiefs for the People of the Mohawk Nation of the Five Nations Iroquois Confederacy.”⁶ Thereafter, on April 15, 1979, the Akwesasne Mohawk Nation sent a letter to the SRMT Tribal Council advising that “any question or doubt that the settlement of the late Peter and Margarette Eopps (sic) estate is open to claim is no longer valid” and it declared that the Longhouse Council of Chiefs with Marita Skidders had resolved the matter.⁷

All parties agree that at some point after she took possession of the premises, Marita Skidders left the premises to live elsewhere on her other property on Cornwall Island. Respondents assert that from 1981 to 1987 Marita’s son, Richard, with his family,

³ Tribal Council had the authority to determine land claims and estate claims

⁴ The settlement document is a part of the pleadings herein and all parties have access thereto

⁵ She was not the “legal owner” but a life tenant only pursuant to the Tribal Council Settlement

⁶ Such action by Marita Skidders was in direct contravention of the Tribal Council Settlement of January 11, 1978

⁷ The April 15, 1979, letter is a part of the pleadings herein and all parties have access thereto

resided on the premises; that he left in 1987 when Marita then allowed her son, Lawrence Skidders, with his family, to take possession of the premises. Claimants agree that Marita allowed her children to reside on the premises, and that the last of her children to reside there was Lawrence after Richard moved out. There is some claim that Marita wanted to live there, but that Lawrence thwarted her wishes. However, there is no proof of that, and it is undisputed that Lawrence, together with his family, lived there from 1987 until his death in 1993. It is also undisputed that Lawrence invested a significant amount of money, built buildings and ran businesses known as Skidders Construction and Skidders Garage, eventually adding Wolfclan Trucking and a cigarette manufacturing company and warehouse known as Traditional Trading, all in operation until his death.

After Lawrence Skidder's death on February 3, 1993, there was a Ten Day Feast held by the People of the Longhouse Ahkwesasne for "Lawrence Nelson Skidders (Tekahionhake Wolf Clan)" on February 12, 1993; minutes thereof were quoted by Elizabeth Clute, Bear Clan Mother of Kenienkehaka Tekariwa ie Nawa Kon.⁸ As a consequence of the Ten Day Feast, it was determined that: "(i)f the children are small, the wife or mother, has to make sure all that is left is in her care until the children are of age. She has the right to all that is in hand. . . Then the speaker will make LAW that all is to be left in hands of wife/spouse for the children." See minutes.

Claimants allege that after Lawrence Skidders' death in 1993, Marita Skidders and Julia Back Skidders went to the Saint Regis Mohawk Tribe to confirm ownership in the property. That assertion is supported by a letter dated March 12, 1993, signed by Head Chief Norman J. Tarbell, Sub Chief Randy Conners, and Tribal Chief John S. Loran to the Tribal Clerk stating that there had been several meetings held to discuss the matter and that at meeting held March 11, 1993,⁹ attended by both Marita Skidders and Julia Back Skidders it was stated that "the transfer of use and occupancy of said property to

⁸ The Minutes of the Ten Day Feast were provided to the Court pursuant to the Order to Produce dated January 3, 2019, and made available to the parties

⁹ Minutes of all meetings sought by this Court cannot be located

Maria Skidders is lawful and binding.” To that date no deed had ever been issued. The only determination was the 1978 determination by Tribal Council that Marita Skidders was granted “use of said property until her death” i.e. life estate/use only, with further determination to be made after Marita Skidders’ death. Subsequently on April 23, 1993, Marita Skidders and Julia Back Skidders (with others) entered into a contract agreement¹⁰ for the continued operation of the Skidders’ businesses on said property for a period of 25 years. Julia Back Skidders and the other partners of the business were to pay Marita Skidders certain funds for the use of the property. However, as of that point in time, Marita Skidders’ interest in the property was that of only a life tenant.

Claimants have provided letters, part of the pleadings, from the Saint Regis Mohawk Council dated February 19, 1994, to Julia Back and to employees of the Skidder businesses once again confirming that the determination of Tribal Council that the (1978) transfer of the property known as the Peter Hopp’s Estate to Marita Skidders is lawful and binding. The letter to the employees states that Marita Skidders is the “rightful owner” of the property with the right to “buy or sell any or all of said estate” among other things. As stated above, the 1978 “transfer” to Marita Skidders of the property was that of only a life estate. Any other interpretation by Tribal Council at that time was a misinterpretation of the original determination and erroneous.

A letter from Julia Skidders to Marita dated May 21, 1995, acknowledges Marita’s “life use.”

A claim to the property was made by a Christina Jock, a relative of Margarette Hopps, against Marita Skidders. Claimants allege that it was Julia Back Skidders who encouraged Christina Jock and colluded with her to bring the claim. An “informal panel hearing” was scheduled with the Tribe regarding the claim made against the property for March 5, 1996. A copy of the notice to Marita Skidders dated February 16, 1996, signed by David Jock, Tribal Administrator, is a part of the pleadings. The minutes of that hearing, also a part of the pleadings, are dated March 5, 1996. Julia Back Skidders and

¹⁰ The contract agreement is a part of the pleadings herein and all parties have access thereto

others attended; Marita Skidders did not attend. The minutes state "It was said at the meeting that Marita got life-time use because she took care of Peter. Since Marita left the premises the life-time clause was broken." The recommendation was that since Marita Skidders did not attend the meeting, comments would be held off until the meeting to be scheduled in "3 or 4 weeks . . . (around March 29th 1996.)" No other reference to any further hearing was made in the pleadings and no minutes have been provided of any such hearing(s).

Discord continued between the family members. A criminal complaint was filed in Bombay Town Court. Claimants claim that Marita Skidders continued to pursue the matter by requesting a meeting with the Tribal Chiefs and the Constitutional government, the result of that meeting being a direction that she pursue the matter in Tribal Court. On June 30, 1999, the Tribal Court, Hon. Martha Montour, Associate Judge, issued an "Order of Restraint/Injunction" in favor of Marita Skidders against Julia Back, but such Order does not indicate from what Ms. Back is restrained or enjoined. It merely recites that it is a renewal of a provisional injunction "restraining the Defendant" (Ms. Back) for a period of ten days from June 30, 1999. No party has provided the Court with the original provisional injunction. And despite the fact of the injunction, Marita Skidders' property interest remained that of a life tenant.

On September 14, 1999, the SRMT Court, Hon. Carrie E. Garrow, issued a Cease and Desist Order in favor of Marita Skidders against Julia Back, enjoining Julia Back from destroying buildings or property located on the land in question and from any further construction of buildings upon the property.

On October 29, 1999, on Haudenosaunee letterhead, Marita Skidders, was given a "Land Title" between "Peter and Margarette Hopps, deceased," and "Marita nee Hopps Skidders." The "Land Title" states: "This Land Title is to record the transfer of land, dated April 15, 1979, from the estate of the late Peter and Margarette Hopps, . . . transferred and registered to Marita Skidders" It is signed by: Edward Gray, Turtle Clan; Teharonamehen, Wolf Clan; and Otsitsakan:ra, Bear Clan. The April 15, 1979, "transfer of land" referred to is the Guardianship of Property agreement between Marita Skidders

and the Longhouse Council of Chiefs wherein Marita Skidders granted the Longhouse Council of Chiefs guardianship of the property. It was not a transfer from the Hopps Estate to Marita Skidders. The only transfer from the Hopps Estate as such was the 1978 Tribal Council settlement granting Marita Skidders life use of the property.

Five days after the "Land Title" was issued by the Haudenosaunee, the SRMT Council, with authority as the recognized governing body of the Tribe, issued Tribal Council Resolution 99-21, Land Dispute Settlement in the matter of Marita Skidders vs. Julia Back Skidders¹¹ wherein it resolved that the disputed property would become the property of "Kathleen Skidders and her sisters, daughters of Lawrence Skidders" subject to the life use of said property in Julia Back Skidders.

Subsequent to that, and on November 9, 1999, the Tribal Clerk issued a statement "To Whom it May Concern" stating [REDACTED] . . . is for life use for Marita Skidders."

On November 10, 1999, Honey Skidders, as power of attorney for Marita Skidders, commenced a proceeding in Bombay Justice Court to recover the real property which is the subject of this proceeding.

On November 19, 1999, the Tribal Clerk again issued a statement "To Whom it May Concern" in which she states that since the January 11, 1978, Tribal Council decision the land has not been transferred and has remained "in the name of Marita Skidders." Once again, the 1978 determination was a grant of life use only.

By letter dated June 20, 2002, SRMT Council, as the "duly elected and federally recognized government of the Saint Regis Mohawk Tribe with full jurisdiction of property located within the American portion of Akwesasne" sent a letter to a Ronald McClelland, a Canadian lawyer, reaffirming its November 3, 1999, Resolution. In it, Council stated the matter had been addressed in several meetings between 1994 and 2000 "with representation from both sides, either personally or through their respective attorneys."

¹¹ Inasmuch as the title of the matter before the Tribal Council is Marita Skidders vs Julia Back Skidders, it is reasonable for this Court to assume it was Marita Skidders who brought the matter before the Tribal Council

They further stated “. . .the decision to transfer the disputed property to the daughters is the final decision of the (SRMT.)”

On March 25, 2003, the SRMT issued a right to use and occupancy deed between the Saint Regis Mohawk Tribe on behalf of the Estate of the Late Lawrence Skidders to Kathleen Skidders and her sisters, Julianne, Larri Lee, Samantha and Sarahlee.

Claimants now bring this action pursuant to SRMT Land Laws and Land Dispute Ordinance enacted in 2016, seeking a waiver of the statute of limitations and a *de novo* hearing. Claimants filed such request prior to June 30, 2018, the time set by the statute.

Applicable Law

To say that this matter is convoluted with opposing decisions having been rendered by those claiming power and authority, and erroneous interpretations having been made is an understatement. However, the proper decision is quite clear.

In January 1978, at the time of the first “Settlement” in this matter, the SRMT was governed by a three-chief system of government and the Mohawk Tribal Council was the arbiter and authority for the determination of estate and land disputes. Tribal Council held that power and authority until the development and establishment of the Tribal Court in 2007 by Tribal Council Resolution 2007-01, Authority of the Tribal Court System, adopted January 3, 2007.¹² Tribal Council adopted the Land Dispute Resolution Ordinance (SRMT LRDO) by Tribal Council Resolution 2009-69 on December 3, 2009. When Council enacted SRMT LRDO, it created a Land Dispute Tribunal, composed of community members, and delegated authority to resolve land disputes to the Land Dispute Tribunal and the Tribal Court. SRMT LRDO, Section II provides:

The Tribal Council is vested with the authority to control the use of lands on behalf of the tribe and has customarily been responsible for resolving land disputes on the Reservation. Pursuant to the referendum held June 6, 2009, this authority is hereby delegated

¹² Although the first Tribal Court was established in June 1995 when the “Constitution of the Saint Regis Mohawk Tribe” was certified by the Tribal Clerk, creating a judicial branch of government, that Constitutional government was invalidated, thereby invalidating the Tribal Court and its previous orders. *Ransom v. Babbitt et al*, 69 F. Supp.2d 141, Sept. 30, 1999.

to a Land Dispute Tribunal and the Tribal Court, which shall have the authority to render final decisions.

The current SRMT Land Laws and Land Dispute Ordinance (SRMT LL and LDO) was adopted by Tribal Council Resolution 2016-91, December 21, 2016, rescinding TCR 2009-69 and delegating the authority to resolve land disputes within the Tribe's reservation to the Tribal Court. SRMT LL and LDO Section (II)(B).

The SRMT Probate Law was adopted August 16, 2017, by Tribal Council Resolution 2017-52. In determining estate questions prior to that time, the Court would have the authority to look to customs and traditions of the Mohawk community and to look to the law of other jurisdictions as may be appropriate. Prior to the establishment of the Tribal Court, such authority rested in the Tribal Council.

All of the previously-mentioned determinations/settlements made by SRM Tribal Council and the proclamations and "land transfer" made by the Akwesasne Mohawk Nation/Haudenosaunee with regard to the property in question, including estate decisions related thereto, culminating in the March 25, 2003, deed from the SRMT to the children of Lawrence Skidders, were made prior to the establishment of the Tribal Court. It is the Court's determination that the Saint Regis Mohawk Tribal Council was the recognized Tribal authority and governing body during all of that time. However, the Court also recognizes that the Akwesasne Mohawk Nation claimed such authority. A significant issue before the Court is a fundamental divergence of attitude between the Mohawk Tribal Council of Akwesasne (SRM Tribal Council) and the Haudenosaunee/Akwesasne Mohawk Nation. It is for that reason that the Court believes it most important to consider customs and traditions of the Mohawk people in its determination; and it will do so. Further, SRMT LL and LDO Section IV(A) addresses the application of customs and practices as follows: "The customs and practices of the Saint Regis Mohawk Tribe will be applied in all situations where it is relevant to resolve a land dispute." (Emphasis added.)

Customs and Traditions

Claimants allege that the actions of the Tribal Council in Resolution 99-21 “ignored the entire history of ownership, acknowledgment of ownership, and the comity previously accorded to the Traditional Chiefs of the Mohawk Nation Council of Chiefs.” Except for that statement, they offer no proof of the history to which they refer. The Akwesasne Mohawk Nation did not act until April 15, 1979, 15 months after the Mohawk Tribal Council made its determination January 11, 1978, granting Marita Skidders life use of the Hopps Estate property. There is no indication that there was a Ten Day Feast for Peter Hopps or any “traditional” Chiefs’ determination prior to SRMT Council’s “settlement.” SRMT Council’s settlement was made after “several meetings with the heirs of both parties on the Hopps Estate” including Marita Skidders who participated and presented evidence which resulted in a favorable decision for her.¹³ Marita Skidders entered into possession of the property, as life tenant, pursuant to the Mohawk Tribal Council Settlement.

Subsequently Marita Skidders removed herself from the premises in 1981 and eventually in 1987 allowed Lawrence Skidders and his family to live on the property. Lawrence Skidders resided on the land with his family, including Julia Back Skidders and their children, some of whom were born during that time.

This Court in *Square v. Tarbell*, Saint Regis Mohawk Tribal Court, Case No. 11-LND-00004, Decision August 31, 2012, conducted a lengthy investigation into the customs and unwritten laws of the Saint Regis Mohawk people as observed by English chroniclers of life in St. Regis. The Court cites a diary entry of July 13, 1817, by Major Joseph Delafield, an American Agent under Articles VI and VII of the Treaty of Ghent, in which he writes: “He who first cultivated a plot of ground becomes the possessor, and by this use gains a right to sell his privilege. . . .”¹⁴ The Court also cites Franklin B. Hough, from his history of St. Lawrence and Franklin Counties, in which he observed: “When an Indian is in possession of a piece of land he holds it as proprietor; no other Indian can

¹³ See January 11, 1978, Mohawk Tribal Council Settlement, M. & P. Hopps Estate

¹⁴ *The Unfortunate Boundary. A diary of the first survey of Canadian Boundary Line from St. Regis to the Lake of the Woods* (1943)

take it from him. He may by custom transfer it to his heirs, or sell it to any number of the Tribe . . . (and) (land) which by the right of occupancy have come to be considered the private property of individuals, and as such are bought and sold among the natives. . .”¹⁵ This Court, after its inquiry into such historical documents, stated: “Therefore, in combination these observances clearly show some sense of property control, for both agricultural and commercial purposes, by the Indians of St. Regis.” And further it found “This clearly provides early evidence of some sense of the privilege and/or right associated with property control on the St. Regis Indian Reservation by an individual St. Regis Indian: Those who first cultivated become the possessor. In addition, the passage (from Delafield) clearly shows that ‘property transfers’ were occurring by and between St. Regis Indians.”¹⁶

At the time of Lawrence Skidders’ untimely death on February 3, 1993, at the age of 35, he was survived by Julia Back Skidders and his five daughters, all minors. In accordance with the customs and traditions of the Mohawk community, in particular the Kanienkehaka Longhouse, a Ten Day Feast was held for Mr. Skidders. Minutes were produced. The minutes do not reveal the names of those present. However, it is customary that the family is present. Any claims to, or grievances against, the decedent’s possessions, including his land, are made at the dead feast. The minutes state that the speaker asks the following question to all in attendance: “Is there anyone here that have anything to say or want.” The minutes do not indicate that any claims or grievances were brought forth. The minutes state that the speaker then made the law that “all is to be left in hands of wife/spouse for the children.”

Further, long before the existence of the Tribal Court and the specific land dispute ordinances and probate law, the Tribe turned to the notion of equity in determining such issues. One example is set out by this Court in its decision in *Thompson v. Terrance*, 13-LND-00011 (Nov. 4, 2015) wherein it refers to a 2006 Tribal Council decision in a land

¹⁵A *History of St. Lawrence and Franklin Counties, New York, From the Earliest Period to the Present Time* 110,113 (Identifying June 1852 as the time of Hough’s visit to St. Regis)

¹⁶ *Square v. Tarbell*, *supra*, pp. 4-6

dispute. The Council looked back to a 1953 document, and while it found the document not binding, it noted that it needed to be "fair"¹⁷ and further noted that it had to consider the improvements made to the homestead property over the past years and stated:

It is the belief of the Tribal Council, in order to address the improvements to the Homestead property, our final resolution should not evict anyone from the homes they have constructed on the Homestead property over the years¹⁸

This Court itself has considered equity in its land use decisions. See *Garrow v. Garrow*, 15 LND-00002, June 29, 2015; *Sawatis v. Cook*, 12-LND-00002, Dec. 8, 2014.

Discussion

This action is brought by claimants pursuant to the SRMT LL and LDO of 2016. They seek to have the Court waive the statute of limitations to review Tribal Council Resolution 99-21, Land Dispute Settlement, Marita Skidders v. Julia Back Skidders, wherein it was resolved, among other things, that the Hopps Estate property "becomes the property of Kathleen Skidders and her sisters, daughters of Lawrence Skidders" subject to the life use in Julia Back Skidders. Such resolution resulted in the March 25, 2003, deed from SRMT to the Skidders children. Claimants seek a *de novo* review of Tribal Council Resolution 99-21. They claim it as a matter of right.

Respondents have moved the Court to dismiss claimants' complaint and amended complaint. SRMT LL and LDO, Section VI(A)(2) provides that:

Tribal Court shall have jurisdiction over any land dispute that is commenced within six years of accrual of the injury or the date the party knew or should have known of the injury. . . Tribal Court has the discretion to waive the statute of limitations for good cause, such as where the party could not have known, or was prevented from knowing of his or her injury.

¹⁷ See *Thompson v. Terrance*, *supra*, p. 2, quoting from and citing *SRMT Tribal Council Decision, Thomas and Margaret Terrance Estate, December 2006*, at p. 14

¹⁸ *Id.* p. 16

From the issuance of SRMT Tribal Council Resolution 99-21, claimants and Marita Skidders were aware of the Tribal Council Resolution and of the occupation of the premises by Julia Back Skidders and her children. While there were disputes and actions brought in the Town of Bombay Justice Court, and a claim of some sort for a cease and desist order in the previous Tribal Court which was determined to be invalid, Claimants made no formal claims to the land from the time of the establishment of the SRMT Tribal Court in January 2007 until this complaint which was filed June 20, 2018. Therefore, the Court will not waive the statute of limitations for good cause pursuant to Section VI(A)(2). Claimants were aware of Marita Skidders' and their own potential claims throughout the period of six years from November 3, 1999.

SRMT LL and LDO, Section VI(G)(1) provides that:

As a matter of equity, (emphasis added) the statute of limitations will be waived and the Tribal Court shall have the authority to review any land dispute decisions made by Tribal Council between December 1, 1998 and December 3, 2009. . .
Such review shall be de novo. This authority shall expire June 30, 2018.

Claimants filed their complaint on June 20, 2018, asserting their "right" to a *de novo* hearing. Claimants do not have a "right" to such a hearing. However, the Court has an obligation to determine whether equity demands that the statute of limitations be waived to provide them with such a hearing.

Lawrence Skidders died February 3, 1993. The undisputed facts are that he possessed, with Marita Skidders' consent, cultivated and significantly developed the land, establishing a home and businesses until his death. There is no indication that Marita Skidders ever rescinded her permission for him to live there or forbid him from developing the land reasserting her life use of the property. The facts indicate otherwise. From the time of the original 1978 Tribal Council "settlement" granting Marita Skidders life use of the property [and including her grant of "guardianship" to the Longhouse Council of Chiefs] a period of over 14 years expired without Marita Skidders taking any action to enforce her life use and remove Lawrence and his family from the property; in fact, they were there with her permission. After Lawrence's death in February 1993 there was

a Tribal Council meeting on March 11, 1993, and subsequent letter of March 12, 1993, as indicated above. On February 19, 1994, Tribal Council sent Julia Back Skidders a letter ordering her to vacate the premises; that was subsequently reversed by Tribal Council on February 23, 1994. However, that proves nothing other than the fact that Marita Skidders was trying to enforce her life tenancy in the property. Between March 12, 1993, and 1999, there was communication between Marita Skidders and Julia Back Skidders concerning the property. There was an agreement between Marita Skidders, Back-Skidder, Jocko and Montour regarding use of the land for cigarette production. Marita Skidders could enter into such an agreement as a life tenant. That does not prove her "ownership." There were also meetings with Tribal Council concerning the property, although those minutes have not been available to the Court.

On July 12, 1999, a restraining order was issued by the Tribal Court. It refers to a June 4, 1999, injunction, of which this Court has been provided no copy, but which had apparently expired. The July order notes that Julia Back Skidders was still conducting business on the property without Marita's permission. However, Marita Skidders still had only a life interest, and the 25-year agreement made on April 23, 1993, was still in effect. As indicated, there was a cease and desist order issued by the Court on September 14, 1999, but this Court has no other information regarding that order. That court was ultimately found to be invalid and was abolished just days later. See *Ransom v. Babbitt et al, supra*.

Claimants allege that Marita Skidders hired a lawyer who continued to represent her through 1999, but nothing was resolved. Marita Skidders gave Honey Skidders a power of attorney in October 1999. Respondents argue that claimants or Marita Skidders did nothing after 1999. However, claimants claim that until some time in 2000 either Marita, or Honey and her sister, continued to pursue a claim to the property. However, it is clear that at least from the end of 2000 until this claim was filed on June 20, 2018, Julia Back Skidders and her children have remained on the property and have continued to develop the property without legal interference from Marita Skidders or her power of attorney acting on her behalf, or from claimants since Marita Skidders' death in 2012.

Claimants have set out arguments in two directions: they claim that Marita Skidders had only a life use (pursuant to the express decision of the Tribal Council in 1978) arguing that she could not have given the land to Lawrence because she had only life use of it, and further arguing that the 1978 decision forbid her from selling or transferring the property by will – which it did. But they also argue that she had ownership as of 1979 through the “Guardianship of Property” document she entered into with the Longhouse Council of Chiefs. If she did not have ownership in the first instance, she could not validly enter into such an agreement with the Council of Chiefs. There is a claim made by claimants that Marita Skidders was not a member of the Tribe in 1978 but became one thereafter changing her interest in the property. There is no evidence of that before the Court whatsoever. It appears that Marita Skidders was seeking Tribal Council’s determination in 1978 and accepted it, but then sought more from the Longhouse Council of Chiefs 15 months later in 1979. The same thing happened when, after Lawrence Skidder’s death, and after many meetings with Tribal Council, the 1999 decision was made by Tribal Council that the land would pass from Lawrence to his children. At nearly the same time, and with knowledge of the meetings with Tribal Council, Marita, in firm by all accounts and represented by Honey Skidders as her power of attorney, obtained the “land title” from the Mohawk Nation.

Claimants cite the March 12, 1993, November 9, 1999, and November 19, 1999, Tribal Clerk “To Whom It May Concern” letters (referenced above) which state that title to the property was still in the name of Marita Skidders. The wording of those letters is unfortunate because the “title” in Marita Skidders was at the time, and had been since 1978, a life estate only [as referenced in the November 9, 1999, letter.]

The 1978 Tribal Council “Settlement”, in addition to granting her a life estate, also stated: “After (Marita’s) passing, the council will then make another determination as to the fair and proper disposal of said property.”¹⁹ At that time, and through Resolution 99-21 dated November 3, 1999, the SRMT Tribal Council was the body with exclusive

¹⁹ See Mohawk Tribal Council letter dated January 11, 1978, to Marita Skidders

authority to make determinations with respect to land within the SRMT reservation, and it had the power to overrule itself. While it could be argued that Tribal Council had the authority to make a new determination prior to TCR 99-21, it did not do so; it merely confirmed the 1978 settlement each time. Despite the fact that Marita Skidders was still alive in 1999 at the making of the said Resolution, the Tribal Council had the power to make such a determination. If the Court were to strictly follow the 1978 Tribal Council "settlement" as today, without the intervening 1999 Resolution, and subsequent 2003 SRMT deed, it would be required that it send the matter back to Tribal Council for "another determination" since Marita Skidders' death in 2012. However, since 2007, the power to make all land use determinations now rests with the Tribal Court.

Respondents are correct when they argue that even if claimants initiated probate proceedings²⁰ for Marita Skidders' estate at this time, or even in 2012 after her death, her life interest in the property expired upon her death. If claimants argue that the Longhouse Council of Chiefs should have that power, the Court would have to look to the customs and traditions of the Longhouse, which would lead it to the Ten Day feasts. There is no proof there was a Ten Day feast for Marita Skidders, but there was one for Lawrence Skidders in 1993, and the determination was made then and there that the property would pass to his children.

Therefore, following both the traditional Longhouse authority and the Tribe's official authority, there is but one outcome: the property passes to the children of Lawrence Skidders and Julia Back Skidders. Pursuant to the 1999 Tribal Council Resolution, Julia Back Skidders has a life interest in the property. The 2003 SRMT deed, apparently prepared in accordance with that Resolution, does not recite the life use in Julia Back Skidders.

²⁰ Over which the SRMT Tribal Court has exclusive legal jurisdiction

Conclusion

Based upon the foregoing, this Court finds that claimants have failed to show good cause why the court should waive the statute of limitations pursuant to SRMT LL and LDO Section VI(A)(2). Claimants have been aware of, and intimately involved in, the events concerning Lawrence Skidders' (and subsequently his family's) possession of the property and of any disputes over the same since his death. No reasonable efforts were made to enforce any claim to the property by them, or Marita Skidders prior to her death in 2012, since the establishment of this Tribal Court in 2007 until June 20, 2018.

The SRMT LL and LDO Section VI(G)(1) provides for review of prior Tribal Council decision and states:

As a matter of equity, the statute of limitations will be waived and the Tribal Court shall have the authority to review any land dispute decisions made by Tribal Council between December 1, 1998, and December 3, 2009 [the relevant time period in this proceeding] . . . Such review shall be *de novo*.

Claimants argue such *do novo* hearing is a matter of right. It is not. It is a matter of equity. For all of the reasons set out above, this Court finds that equity requires the statute of limitations not be waived, and that the action herein be dismissed.

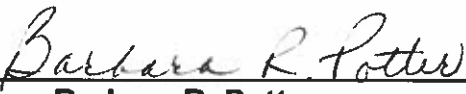
NOW, THEREFORE, upon the foregoing, it is

ORDERED that the complaint of claimants filed June 20, 2018, and the amended complaint be, and the same hereby are, **DISMISSED**; and it is further

ORDERED that the Tribal Clerk shall issue forthwith an amended SRMT Use and Occupancy Deed, amending the March 25, 2003, deed issued by it from the SRM Tribe on behalf of the Estate of the Late Lawrence Skidders to Kathleen Skidders (Papineau), Julianne Skidders, Larri-Lee Skidders, Samantha Skidders and Sarah Lee Skidders, to include the restriction of the vested life estate in Julia Back Skidders, in accordance with

Tribal Council Resolution 99-21 dated November 3, 1999.

Signed by my hand this 29th day of March, 2019



Hon. Barbara R. Potter
Associate Judge
Saint Regis Mohawk Tribal Court

The parties have 30 days from entry of this order to file an appeal with the Saint Regis Mohawk Appellate Court.