

SAINT REGIS MOHAWK TRIBAL APPELLATE COURT

Catherine Leaf)	
Appellant)	
)	DECISION AND ORDER
-V-)	
)	19-CIV-00009
Irving Papineau and Todd Papineau)	
)	
Appellee)	

Facts

On April 26, 2009, Appellant Catherine Leaf filed two appeals with the Saint Regis Mohawk Tribe's Appellate Court, 19-CIV-00009 and 19-CIV-00010, both stemming from the same land dispute between Catherine Leaf and Respondents Irving Papineau and Todd Papineau.

In this appeal, 19-CIV-00009, Appellant seeks review of a Tribal Court Decision and Order, (18-LND-00004, April 18, 2019), which dismissed Appellant's complaint involving real property [REDACTED] with prejudice.

Appellant requests "an oral argument; submits proof of her status as Executrix" and "photographs of encroachment, lawn mowed by Todd Papineau." Appellant also requests a "cease and desist order." (19-CIV-00009 Notice of Appeal).

Jurisdiction

As noted, this case comes before the Court of Appeals on appeal from a decision issued by the Tribal Court on April 18, 2019. Pursuant to the Saint Regis Mohawk Tribe's (SRMT) Rules of Civil Appellate Procedure, this Court may hear an appeal of a final judgment from the SRMT Tribal Court. SRMT Civ. App. R. § II (A).

Effective December 21, 2016, the Land Laws and Land Dispute Ordinance (SRMT LL & LDO) was enacted by the SRMT Tribal Council which repealed and rescinded the Tribal Land Dispute Ordinance. Pursuant to the SRMT LL & LDOL § VI(I), Tribal Court decisions are final and may be appealed to this Court. Therefore, this Court has jurisdiction to hear this appeal in that it is an appeal from a Tribal Court decision. For reasons stated below, this court finds the Court of Appeals, and the Tribal Court did not have jurisdiction over the issues raised in the dispute.

Procedural History

On August 14, 2018, Appellant/Claimant filed a Land Dispute Claim in SRMT Tribal Court against Respondents Irving Papineau and Todd Papineau (18-LND-00004). On August 28,

2018, Respondents filed a timely answer in which they admitted to mowing a small portion of [REDACTED] (Catherine Leaf's property) and agreed to the commission of a land survey.

On August 30, 2018, Appellant/Claimant filed a request with Tribal Court for all land documentation pertaining to herself and Irving Papineau regarding [REDACTED]

After an initial appearance on November 30, 2018, the Court held a status conference on February 8, 2018 and set a briefing schedule. On February 11, 2019, a Notice of Appearance was filed by Respondent's counsel Vaughn Aldrich.

On February 22 and 28, 2019, Respondents' Counsel filed an Answer and Motion for Summary Judgment.

On February 27, 2019, Appellant/Claimant filed a Motion with Tribal Court seeking to show proof that she is the sole executor of the Estate of Robert Laffin including [REDACTED] and requesting that Todd Papineau cease and desist from trespassing on [REDACTED]. Appellant/Claimant argued that Respondents do not have a legitimate claim to the property and that there are no boundaries on record.

On April 18, 2019, Tribal Court granted Respondents' Motion for Summary Judgment and dismissed the land claim with prejudice, finding that there was no genuine issue of material fact regarding the ownership of [REDACTED]. Tribal Court also noted that it could not make any determinations as to the boundaries of [REDACTED] or any adjoining properties in the case because Appellant was not clear on her claims.

On April 26, 2019, Appellant filed a Notice of Appeal stating her appeal as a request for "an oral argument" and requesting the court do a land survey. Appellant also submits proof of her status as executrix and "photographs of encroachment, lawn mowed by Todd Papineau" and further requests a "cease and desist order".

Analysis

The SRMT Rules of Appellate Procedure govern all appellate proceedings before this Court. SRMT Civ. App. R. § II(A). Where the SRMT rules are silent, the Appellate Court will use the Federal Rules of Appellate Procedure in its inquiry. *See id.* at § II(B). SRMT Rules of Appellate Procedure allow the Court to suspend the rules in any case upon motion for good cause shown. *Id.* at § IV.

In this appeal, Appellant does not state a claim for relief regarding the motion to dismiss the case in 2012. Appellant does not tell the Court of Appeals what she wishes to appeal in the case. Appellant only tells the Court that she wants to bring new claims, not why the Tribal Court did not decide the case correctly. Appellant has not made clear to this Appellate Court what she is appealing and why the Tribal Court's dismissal was improper.

The Court considers three issues of concern:

- 1) Appellant's appeal was timely.
- 2) This Court does not have jurisdiction to hear this appeal for reasons other than that which is identified under the **Jurisdiction** section, *infra*.
- 3) The Tribal Court did not err when it granted Appellees' motion to dismiss.

Discussion

I. Appellant's appeal is timely.

As an initial concern, this Court must determine if the appeal was timely filed. Generally, under SRMT Rules of Appellate Procedure, a Notice of Appeal must be filed not later than 30 days after the entry of judgment from which the appeal is taken. SRMT Civ. App. R. § IX(A). Filing an untimely appeal will result in the dismissal of the appeal. *See id.* at § III(B). In the present case, Ms. Leaf filed this appeal on April 26, 2019, eight days after the Tribal Court issued its final decision on April 18, 2019 in this case. Accordingly, this appeal is timely.

II. This Court does not have jurisdiction to hear this appeal.

Second, this Court considers whether it has jurisdiction in this appeal.

A. Statute of Limitations

Appellant filed the underlying land dispute claim with the Tribal Court on August 14, 2018. SRMT Land Laws required Appellant file her land dispute claim within six years from the date that she became aware of Respondents' encroaching upon her land. Records reflect that Appellant filed a Land Dispute claim in 2012 involving the same subject and same Respondent. (Robert G. Laffin and Catherine Leaf v Irving Papineau, 10-LND-00003/19-CIV-00010) Appellant knew her land dispute claim existed in May 2012—at the very latest—because this land claim has been at issue since 1994.¹ The SRMT Tribal Court issued its final order in that case on October 19, 2012. Appellant did not file the current claim until August 14, 2018—well after filing the same exact case in 2012. Therefore, this appeal is beyond the statute of limitations, Appellant's claim is barred, and we decline to exercise jurisdiction.

Under the Land Laws' explicit language, Appellant had to file her claim no later than June 30, 2018. *See* LL&LDO §VI(G)(1). Accordingly, Appellant's claim falls outside of the statute of limitations by approximately 45 days because she did not file it until August 14, 2018. The statute did not provide that these types of claims over Tribal Court Resolutions would be outright barred after June 30, 2018. *See id.* However, SRMT's statute of limitations is jurisdictional. *See generally* LL&LDO §VI(A)(2) ("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 that serves as the basis of the claim."). Because the

¹ Appellant also appealed the prior 2012 decision at the same time as this case. *See* 19-CIV-00010.

time limit set in the LL&LDO limits whether the Tribal Court can hear a land dispute case, it is a jurisdictional limit on this court. Accordingly, this appeal is time-barred and the Court does not have jurisdiction to hear this case.

B. The Doctrine of Res Judicata

In addition to the statute of limitations, federal courts recognize the legal doctrine of *res judicata*.² *Res judicata* is the concept that a party may not re-litigate a claim that the party already brought and in which a court has issued a valid, final order.³ Any claim that the party did bring or could have brought are precluded from future litigation. *Id.* The principle behind *res judicata* encourages parties to file a single lawsuit where courts can adjudicate claims efficiently and fairly. *Id.* Similar to maintaining timely filings, *res judicata* allows parties to rely on the finality of a decision and move on.

This land dispute is long-running both in and out of the court process. In September of 1994, prior to Appellant taking a present possessory interest in the land upon her father's death, Appellant's father Robert Laffin initiated this land dispute before Tribal Council, raising the very same issues as to Respondents' interest in this land. In June of 2003, Respondent provided a survey to Tribal Council and SRMT Right to Use and Occupancy Deeds were issued accordingly, thereby settling that claim in 1995. In 2012 the Appellant "appealed" this 2003 Tribal Council resolution to Tribal Court, as permitted by Tribal land laws enacted in December of 2009. (See TCR 2009-69 enacting the LDRO). On October 19, 2012, Tribal Court rendered a Decision dismissing that appeal. In fact, on April 26, 2019, Appellant filed another Notice of Appeal from that 2012 Tribal Court Decision raising the same issues⁴

Respondents could have reasonably believed this litigation was over and done the first time Appellant appealed to Tribal Court in 2012—as is evident from the fact that they also raised the doctrine of *res judicata* on this appeal. Judge Garrow declined to rule on that, instead opting to grant the motion to dismiss. *See* Order, Apr. 18, 2019, 6.

It is clear that Appellant is attempting to appeal a decision in which the SRMT Tribal Court entered a valid, final order years ago. Allowing Appellant to relitigate past claims wastes valuable court resources and fails to promote a sense of finality in judicial decisions. Accordingly, this Court declines to exercise jurisdiction in this matter not only because the statute of limitations bars the claim, but also because the doctrine of *res judicata* bars this claim as well.

III. Tribal Court did not err when it granted Respondents' motion to dismiss.

² After finding Appellant's claim barred by the statute of limitations, Judge Garrow declined to consider whether the doctrine of *res judicata* applied. Order, Apr. 18, 2019, 6.

³ Kevin M. Clermont, *Res Judicata as Requisite for Justice*, 68 RUTGERS U. L. REV. 1067, 1107 (2016).

⁴ *See* this Court's Decision and Order, 19-civ-00010, (2019).

Lastly, because this Court does not have the requisite jurisdiction to hear the appeal, the SRMT Tribal Court's decision to grant the motion to dismiss is affirmed. At the trial court level, the court dismissed Appellant's claim because she did not state a genuine issue of material fact or the type of legal relief she wanted. The SRMT Rules of Civil Procedure allows a party to file a motion to dismiss a lawsuit at any time "because the court lacks jurisdiction or because the plaintiff has not stated a legitimate basis for relief." SRMT R. Civ. P. Rule 13(c). To interpret this provision, Judge Garrow looked to the Federal Rules of Civil Procedure discussing summary judgment as a guide. *See* SRMT Civ. Code §VI(A) (granting SRMT courts permission to look to the federal rules where the SRMT rules are silent).⁵

Under the Federal Rules of Civil Procedure:

[t]he court shall grant summary judgment if the movant shows that there is *no genuine dispute as to any material fact* and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion.

Fed. R. Civ. P. 56(a) (emphasis added). The motion for summary judgment allows courts to dismiss frivolous claims quickly and prior to expending significant resources on a trial where there are no issues of material fact.⁶

In this case, Appellant specifically challenges the 2003 Tribal Council Resolution and a 1980 land sale. Appellant asks the Court to order a survey of the lot. While the Land Laws allow for the survey of lands, the LL&LDO requires the parties to provide independent surveys to the Tribal Court to help make a decision over the disputed land. *See* LL&LDO §IV(E)(9)(c)(2). The Court may become involved to assign a surveyor and/or apportion fees where necessary, but the Land Laws do not require a court order. *Id.* As Judge Garrow noted, Appellant was, and is, free to have her land parcel surveyed on her own, but this is not a legitimate basis for relief in a matter that is already likely barred by the statute of limitations. *See* Order, Apr. 14, 2019, 7.

Alternatively, the Respondents advanced a motion to dismiss for lack of jurisdiction as well. Judge Garrow could have also dismissed this claim due to lack of jurisdiction. *See* SRMT Civ. Code Rule 13(c). Looking to the Federal Rules of Civil Procedure, a party may file a motion to dismiss for lack of subject matter jurisdiction. Fed. R. Civ. P. Rule 12(b)(1). Subject matter jurisdiction typically means a matter is within the court's grant of authority. Here, the SRMT Tribal Court could hear a land dispute claim. However, the Land Laws, as mentioned previously, generally bars claims filed outside of the statute of limitations period. *See* LL&LDO §§

⁵ As Judge Garrow notes in her opinion, SRMT courts have previously used Rule 56 to consider summary judgment motions. *See* Order, Apr. 18, 2019, notes 13-16.

⁶ John A. Bauman, *A Rationale of Summary Judgment*, 33 INDIANA L. J. 467, 470 (1955) ("The function of the motion for summary judgment is to determine if these apparent issues of fact raised by the pleadings are worthy of trial. If it is found that a trial will prove to be merely a formality because the decision must, as a matter of law, be for one party, the cost and delays of trial are to be eliminated as a matter of social policy and judicial economy.").

VI(A)-(G). Therefore, granting the Appellees' motion to dismiss for the lack of jurisdiction would have also been proper.

Summary judgment is proper because Appellant states no basis for legitimate relief and her claim is barred by the statute of limitations. Allowing Appellant's claims to move forward is contrary to the SRMT Land Laws and is not an efficient use of court resources.

Order

For the reasons stated herein, this appeal is **DISMISSED** with prejudice. The Tribal Court opinion is **AFFIRMED**.

Signed by my hand this 11th day of September, 2019.



Patricia Lenzi, Acting Chief Appellate Judge
Saint Regis Mohawk Tribal Appellate Court



Lisa Garabedian, Associate Appellate Judge
Saint Regis Mohawk Tribal Appellate Court



Karla General, Associate Appellate Judge
Saint Regis Mohawk Tribal Appellate Court