

SAINT REGIS MOHAWK TRIBAL APPELLATE COURT

Catherine Leaf)	
Appellant)	
)	DECISION AND ORDER
-v-)	
)	19-CIV-00010
Irving Papineau and Todd Papineau)	
)	
Appellees)	

Background Facts

On March 17, 2012, Catherine Leaf (Appellant herein) and her father Robert G. Laffin, filed an Appeal with SRMT Tribal Court from a February 28, 2003 Tribal Council decision resolving a land dispute between Appellants and Respondents Irving and Todd Papineau. The land in issue initially belonged to Mr. Laffin, who passed away while the 2012 appeal was pending. Respondents, represented by counsel, filed a motion to dismiss the claim, alleging the Appellant did not have standing to bring the suit since Mr. Laffin left twelve other potential heirs. In July 2012, the Tribal Council granted the Appellant the status of Executrix (Executor) of Mr. Laffin's estate.

Jurisdiction

This case comes before the Court of Appeals on appeal from a decision issued by the Tribal Court on October 19, 2012. 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). For reasons stated below in this decision, this court concludes that in fact it lacks jurisdiction over the dispute as raised before the trial court in 2012.

Procedural History

Appellant filed her initial land claim against Appellees with the Saint Regis Mohawk Tribal Court on March 17, 2012. Appellant's land claim challenged a 2003 Tribal Council Resolution that resolved the land boundaries of [REDACTED] See Decision and Order, Procedural History. Appellees filed a timely Answer on March 27, 2012 requesting dismissal of the "Notice of Appeal." *Id.*

The Tribal Court held a pre-trial conference on June 12, 2012, at which time, Respondents made a motion to dismiss the case alleging the Appellant did not have standing. *Id.* On October 29, 2012, the Tribal Court granted the Respondents' motion to dismiss. The Tribal Court dismissed the case without prejudice because the trial court determined Appellant did not have standing without joining her other siblings. ¹*Id.* On August 26, 2019, nearly seven years later, the Appellant filed this appeal.

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). The 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 Court what she is appealing and why the Tribal Court's dismissal was improper.

Additionally, this Court recognizes three issues of concern:

1. The appeal of this matter is not timely.
2. This Court lacks jurisdiction to hear this appeal because the Tribal Court lacked jurisdiction to hear this case as a matter of first impression in 2012.
3. Even if the Tribal Court erred in granting the motion to dismiss in 2012, this Court declines to overrule that decision because the appeal is not timely, and the claim was never properly before the Tribal Court.

1. The appeal of this matter is not timely.

Under SRMT Rules of Appellate Procedure, a Notice of Appeal must be filed no later than 30 days after the entry of judgment from which the appeal is taken. SRMT Civ. App. R. § IX(A). Failure to file a timely appeal will generally result in the dismissal of the appeal. *See id.* at § III(B). Appellant filed the appeal over six years after the Tribal Court issued its final appeal,

¹ It is possible that the court could have concluded the Appellant had failed to join indispensable parties in the form of her siblings, and reached the same result. For reasons stated in this decision, that issue is not necessary to address.

which is well beyond the 30-day time limits for appeals in the SRMT Rules of Appellate Procedure. Thus, this appeal is untimely.

2. This Court lacks jurisdiction to hear this appeal because the Tribal Court lacked jurisdiction to hear this case as a matter of first impression in 2012.

Generally, this Court may hear an appeal of a final judgment from the SRMT Tribal Court. SRMT. Civ. App. R. § II(A). However, the process for addressing land disputes that was in place at the time this case was filed was the process required under the Tribal Land Dispute Resolution. The Tribal Land Dispute Resolution was in effect from December 3, 2009 to December 21, 2016, and therefore governs the process for the dispute because it was initiated in 2012. In that process, a land dispute was permitted to be litigated before the SRMT Tribal Court as a court of last resort, and the Court of Appeals is specifically excluded as a further layer of review. Therefore, this Appellate Court does not have jurisdiction to hear a land dispute claim that arose between December 3, 2009, and December 21, 2016. *See* SRMT Tribal Land Dispute Resolution Ordinance, §XV(B)(2) clearly stating that when hearing land dispute cases on appeal from a Tribunal Decision or a Tribal Council decision, Tribal Court acts as a court of last resort in that there is no appeal to the Tribal Court of Appeals. Although Appellant is appealing a “final order” from the Tribal Court, this Court does not have jurisdiction to hear the appeal of the 2012 case because it commenced before the trial court as a review of a decision by the SRMT Land Dispute Tribunal.

Under § II of the Tribal Land Dispute Resolution Ordinance, the SRMT Land Dispute Tribunal (hereinafter, “the Tribunal”) had the authority to settle land disputes on the Reservation. The Tribunal had the authority to hear all aspects of a land dispute case. *See id.* at § VII(A)-(B). The Land Dispute Resolution Ordinance outlined the procedure in place at the time for filing land dispute claims before the Tribunal. *See id.* at § VIII. Additionally, the Resolution allowed parties to appeal a decision of the Tribunal to the Tribal Court. *See id.* at § XV. Under that Resolution, the Tribal Court review of the Tribunal’s decision was a final decision and is *not* subject to appeal. *See id.* at § XV(B)(2). The Tribal Land Dispute Resolution set forth an administrative procedure where the Tribal Court’s review of the Tribunal decision was the litigant’s “appeal.”

As the trial court noted in its decision, thereby essentially finding the facts to be as presented to that court: upon the passing of Appellant Robert Laffin there was “nothing before the Court evidencing that [Appellant] Ms. Leaf ha[d] sole or complete authority over Mr. Laffin’s estate.” (10-LND-00003) Thus, the trial court found that Appellant’s claim was improperly before the Tribal Court.

In 2012, the Tribal Court was vested with the authority to hear the case as a court of last resort. That occurred, albeit the trial court found that the Appellant at the time lacked standing to

bring the case before the court once her father, the Petitioner / Plaintiff, had passed away.² This Appellate Court lacked jurisdiction to review the lower court's decision because it was a decision made after a party brought a land dispute matter before the trial court. Further review was and is not permitted by the SRMT laws in place at that time in 2012 to review that lower court decision under the Tribal Land Dispute Resolution Ordinance. This Court, on that basis as well, declines to review the order issued in 2012.

- 3. Even if the Tribal Court erred in granting the motion to dismiss in 2012, this Court declines to overrule that decision because the appeal is not timely, and the claim was never properly before the Tribal Court.**

As local SRMT custom provided, even in 2012, an Executor has standing to pursue claims on behalf of an estate. The Tribal Council appointed the Appellant as the Executrix of the estate in July 2012, and thereafter Appellant had standing to pursue the claim. Rather than immediately return to the trial court with her standing as Executrix confirmed, and ask the trial court to reconsider its dismissal of the case for lack of standing, Appellant chose to take no action whatsoever for nearly seven years. Even if she had taken such steps in a timely manner in 2012, Appellant was limited under the laws in place at the time, to seek final review at the trial court of the decision(s) made by either Tribal Council or the Tribunal, but was not permitted to appeal any trial court decisions.

Discussion

I. Appellant's appeal is not timely.

First, this Court considers whether Appellant's appeal was timely. Under SRMT Rules of Appellate Procedure, a Notice of Appeal must be filed no later than 30 days after the entry of judgment from which the appeal is taken. SRMT Civ. App. R. § IX(A). Failure to file a timely appeal will generally result in the dismissal of the appeal. *See id.* at § III(B).

Because the Tribal Court dismissed Appellant's case on October 19, 2012 without prejudice, Appellant could have re-filed her petition in Tribal Court with updated information and claims, including the July 2012 Tribal Council Resolution appointing her Executrix of Mr. Laffin's estate. Instead of re-filing her case with the Tribal Court within a reasonable time frame, Appellant waited until August of 2018 to file a different case in Tribal Court, 18-LND-00004/ APPEAL 19-CIV-00009, addressing exactly the same subject matter. Appellant appealed from

² See fn. 1, *supra*.

the Decision in 18-LND-00004 on April 26, 2019 — eight days after the Tribal Court issued its final ruling in that matter.³ However, Appellant waited nearly seven (7) years to appeal the Tribal Court Decision issued on October 19, 2012, which is far beyond the 30-day time limit. SRMT Civ. App. R. § IX(A). While Appellant generally has a right to appeal a final order from the Tribal Court, SRMT Civ. App. R. § III(A), this appeal is far beyond the 30-day window provided in the rules. Accordingly, Appellant's appeal of her 2012 case is not timely.

Although the SRMT Rules of Appellate Procedure allow this Court to suspend the procedural rules when it deems necessary, doing so in this case would create an exception that would swallow the rule. Looking toward how federal courts have interpreted provisions on the timely filing of appeals, federal courts treat timely filing of an appeal as a pre-requisite to exercising jurisdiction. *See Bowles v. Russell*, 551 U.S. 205, 215 (2007). That is, federal courts generally lack jurisdiction over untimely appeals.

In addition to jurisdictional concerns, allowing Appellants to bring cases more than six years after the final order creates a lack of finality for the parties and reduces court efficiency.⁴ Parties to a case rely on the finality of a decision. If this Court allows this appeal, the Respondents may argue that they relied on the earlier decision to their detriment. Allowing such an untimely appeal could lead to further litigation, while setting a standard that any party could have essentially an unlimited time to appeal.

Further, expending this Court's resources on a matter that Appellees could reasonably believe was settled seven years ago is contrary to the goals of the procedural rules. Procedural rules exist to encourage court efficiency.⁵ *See generally Bowles*, 551 U.S. at 215 (describing how court created exceptions to rules increase confusion surrounding rules and litigation). Following procedural rules on timeliness allows courts and litigants to put matters to rest. In this case, finality should outweigh flexibility as this Court does not have jurisdiction over Appellant's underlying claims.

Because the SRMT Appellate Rules are clear that a timely appeal must be filed within 30 days of the final judgment and that appeals that are untimely shall be dismissed, this Court dismisses this untimely appeal.

³ See this Court's Decision and Order, 19-CIV-00009 (2019).

⁴ See Aaron-Andrew P. Bruhl, *When is Finality...Final? Rehearing and Resurrection in the Supreme Court*, J. App. Practice and Process 1, 10 (2011) ("We want cases decided correctly, but there must at some point be an end to litigation.").

⁵ See generally David Marcus, *The Past, Present, and Future of Trans-Substantivity in Federal Civil Procedure*, 59 DePaul L. Rev. 371, 381 (2010) (describing how the federal government created uniform procedural rules to increase create efficiency in litigation).

II. This Court lacks jurisdiction to hear this dispute because the Tribal Court lacked jurisdiction to hear this claim as a matter of first impression in 2012.

Regardless of the timeliness of the appeal, the Appellate Court separately considers whether it had jurisdiction over the dispute itself, under the laws in place at the time, to hear this appeal had it been filed in 2012. In this case, there is no indication the Appellant ever filed a claim before the Tribunal, which was vested with the authority and jurisdiction over the dispute in 2012, and therefore had jurisdiction over the claim. In fact, the 2012 Tribal Court opinion mentioned that Appellant did not file before the Tribunal as the Tribal Land Dispute Resolution required. In 2012, the Tribal Court declined to suspend its rules to hear the matter.

When the Tribal Council divested itself of the power to hear land dispute claims, it outlined a clear procedure for claimants to follow. In order to lawfully file the case in Tribal Court, the Appellant had to first exhaust her remedies before the Tribunal. Under the Tribal Land Dispute Resolution, the Tribal Court, not the Appellate Court, was the forum of last review for a Tribunal decision. *See* Tribal Land Dispute Resolution §XV(B)(2). Thus, the Tribal Court itself did not have jurisdiction over the dispute to hear this matter until *after* the Tribunal heard it and issued its decision. The Tribal Land Dispute Resolution required that the Appellant exhaust her procedural remedies before the Tribunal prior to filing a claim in Tribal Court.

Generally, parties must exhaust all their administrative remedies before filing a case in court. *See generally McKart v. U.S.*, 395 U.S. 185, 193 (1969) (“The doctrine provides ‘that no one is entitled to judicial relief for a supposed or threatened injury until the prescribed administrative remedy has been exhausted.’”). Here, the Tribal Land Dispute Resolution required that Appellant first receive a final decision from the Tribunal, and then the Appellant had the right to file an appeal before the Tribal Court. The Tribal Court acknowledged this when it dismissed Appellant’s case without prejudice. Until December 21, 2016⁶, Appellant could have refiled before the Tribunal. However, Appellant waited until August 14, 2018 to file an entirely different case—with the same claim—before the Tribal Court. Only after Judge Garrow dismissed the case Appellant filed in 2018 on April 18, 2019 did Appellant make any movement in *this* case, when she filed the appeal on April 26, 2019. Accordingly, Appellant did not appropriately exhaust the remedies available to her in this case when they were available.

Although its rules allow this Court to suspend the procedural rules where it deems necessary, the Court declines to exercise that option here. The Tribal Land Dispute Resolution provided a specific procedure for claimants to follow in land dispute claims. *See* Tribal Land Dispute Resolution §VIII. The Tribal Council wanted a Tribunal dedicated to adjudicating land disputes to make these determinations. While Appellant does not state a claim for relief in this appeal, her claims questioning a land purchase are the exact type of claims the Tribal Council vested in the Tribunal. Had the Appellant followed the SRMT ordinance and procedure in 2012, the Tribunal was the proper forum to adjudicate this claim because the Tribunal could gather

⁶ This is the date when the law changed the process for addressing land disputes and no longer allowed them to be heard before the Tribunal.

facts and reach conclusions for the Tribal Court to review. *See McKart v. U.S.* 395 U.S. at 193 (“Accordingly, it is normally desirable to let the agency develop the necessary factual background upon which decisions should be based. And since agency decisions are frequently of a discretionary nature or frequently require expertise, the agency should be given the first chance to exercise that discretion or to apply that expertise.”).

Even if this appeal was timely, this Appellate Court would still dismiss the appeal because neither this Appellate Court nor the Tribal Court had jurisdiction to hear the claim.⁷

III. Even if the Tribal Court erred in granting the motion to dismiss in 2012, this Court declines to overrule that decision because the appeal is not timely, and the claim was never properly before the Tribal Court.

Lastly, this Court briefly examines the trial court’s decision to dismiss Appellant’s claim for lack of standing. Because Appellant’s appeal was untimely and the Court lacks jurisdiction to hear the matter, this Court does not reach the issue of whether the motion to dismiss was proper.

Even if the Tribal Court erred in granting the motion to dismiss on the grounds of standing, in the absence of a timely appeal and the lack of the Tribal Court’s initial jurisdiction, this Court declines to reverse the appeal on these grounds. Although the Rules of Appellate Procedure allow this Court to suspend its rules upon good cause shown in a particular case, this Court will not suspend those rules in this case. SRMT R, App. P. § IV.⁸

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⁷ When Appellant filed this appeal on April 26, 2019, she added a new issue regarding a 1986 land dispute to this appeal. Because the Tribal Court did not have jurisdiction to hear this matter, nor did it hear this issue in 2012, this Court declines to decide this issue today.

⁸ Saint Regis Mohawk Tribe did not have an appellate court in 2012. Therefore, this Court would not have reviewed Appellant’s claim under any circumstances in 2012.

Order

For the reasons stated herein, this appeal is **DISMISSED**.

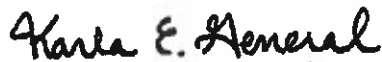
Signed by my hand this 11th day of September, 2019.



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