

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

**Estate of Sarah Elizabeth
Billings Jacobs,**

Deceased

Case No.: 19-PROB-00004

DECISION AND ORDER

PROCEDURAL HISTORY

On February 20, 2019, Geraldine Jacobs and Mark Jacobs filed a petition with the Saint Regis Mohawk Tribal Court requesting to be named the Executors of the Estate of Sarah Elizabeth Billings Jacobs, their mother. Sarah Billings Jacobs died on June 9, 2008. Her husband, Abe D. Jacobs, predeceased Sarah Billings Jacobs. Abe and Sarah Jacobs had six children, Velma Brown, Sharon Curtis, Geraldine Jacobs, Alexander Jacobs, Dominic Jacobs, and Mark Jacobs.

Geraldine and Mark Jacobs submitted a certified family tree from the Saint Regis Mohawk Tribal Clerk's Office. They also submitted a document purported to be the Last Will and Testament of Sarah Billings Jacobs, a copy of a draft revised Last Will and Testament, and a statement from Geraldine Jacobs explaining that her mother died before she could revise her purported Last Will and Testament. On April 2, 2019, the Court found the purported Last Will and Testament to be invalid because it was signed by a notary, not two witnesses.

Alex Jacobs, Dominic Jacobs, Mark Jacobs, Geraldine Jacobs, Velma Brown, and Sharon Jacobs consented to Geraldine Jacobs and Mark Jacobs appointment as the Co-Administrators of the Estate of Sarah Billings Jacobs. The Letters of Administration were issued to Geraldine Jacobs and Mark Jacobs on April 24, 2019.

Hearings were held on April 2, 2019, April 22, 2019, May 14, 2019, June 10, 2019, June 25, 2019, July 23, 2019, and October 7, 2019.

JURISDICTION

Pursuant to the Saint Regis Mohawk Tribe's Probate Law, the Court "shall have personal jurisdiction to probate an estate when, at the time of death, (1) the deceased was either a Tribal Member or a person eligible for enrollment as a Tribal Member and the deceased resided or owned real or personal property located within the reservation."¹ Furthermore, "[t]he Tribal

¹ SRMT Probate Law § 1.3 (a).

Court shall have exclusive jurisdiction to probate real property located within the reservation.”² In the instant matter, Sarah Billings Jacobs, was a tribal member and the Co-Administrators allege she had an interest in real property. Thus, the Court possesses requisite jurisdiction.

APPLICABLE LAW

The present action is governed by the Saint Regis Mohawk Tribe Probate Law (SRMT Probate Law).³

ANALYSIS

The issue before the Court is whether Sarah Billings Jacobs owned any real property when she died. Geraldine Jacobs and Mark Jacobs, Co-Administrators, argue that she owned property on [REDACTED]. The Saint Regis Mohawk Tribal Clerk submitted numerous documents, requested by the Court and the Co-Administrators. Geraldine Jacobs testified as to what property she believed her mother owned. In order to determine whether an Estate owns property, the Court looks for the decedent’s evidence of ownership. This can consist of a SRMT Use and Occupancy Deed, a bill of sale, a land transfer document, testimony in Court, or other relevant evidence. The documents and testimony provided in this case do not indicate the Estate owns any property, but rather that any property interest the Estate may have is still held by other Estates.

The Court notes that Sarah Billings Jacobs left behind two written documents. One was an alleged Last Will and Testament, which the Court found to be invalid due to the lack of witnesses. Although this document does describe property she owns, the Saint Regis Mohawk Tribe’s Land Laws and Land Dispute Ordinance requires that a will must be valid for the Court to consider it as evidence of ownership.⁴ Thus, the alleged Last Will and Testament of Sarah Billings Jacobs is not proof of ownership of the property. The Co-Administrators also submitted a revised draft will, but Sarah Billings Jacobs died before she could sign it. The Probate Law requires a will to be signed by the decedent and two witnesses.⁵ Thus, it also is not a valid will and cannot be considered as evidence or proof of ownership.

The Court will first address the property on [REDACTED]. The record establishes the following about the property on [REDACTED]. Geraldine Jacobs testified that Jacob Billings owned property at the end of the Reservation on [REDACTED]⁶ and produced a 1890 New York Census Map which lists Jacob Billings’ name in this area of the Reservation.⁷ Geraldine Jacobs testified that Jacob Billings owned [REDACTED] and divided it into three lots for his three sons,

² SRMT Probate Law § 1.3. (b) (1).

³ SRMT Probate Law (enacted August 16, 2017).

⁴ SRMT Land Laws and Land Dispute Ordinance § IV.E.3.(c). (December 21, 2016).

⁵ SRMT Probate Law § 4.1 (August 16, 2017).

⁶ Geraldine Jacobs’ Testimony, May 14, 2019.

⁷ Plaintiffs’ Exhibit #2.

Alexander Billings, Joshua Albert Billings Sr., and Isaiah or Isaac Billings.⁸ Alexander Billings was Geraldine Jacobs' grandfather.⁹ He married Sarah Garrow and they had four children; Mary, Jacob, Sarah, the decedent, and Annabelle.¹⁰ Sarah Billings Jacobs, the decedent, and her husband, Abram (Abe) Jacobs, provided assistance to Sarah Garrow Billings prior to her death.¹¹ Geraldine Jacobs testified that when Sarah Garrow Billings died, she left their [REDACTED] to her mother, Sarah Billings Jacobs and the house to Priscilla Herne.¹² Priscilla Herne is the daughter of Annabelle Billings. The SRMT Tribal Clerk's Office submitted a signed statement by Priscilla Herne, Margaret Tarbell and Louis Connors which states that Sarah Garrow Billings left to her niece Priscilla Billings Herne and the [REDACTED] to her daughter Sarah Billings Jacobs.¹³ The statement notes that the house was moved by Priscilla Herne and that she and her husband moved to a different property. The signatories released all their claims to [REDACTED] property that belonged to Sarah Garrow Billings. The statement is notarized.

The SRMT Tribal Clerk's Office also submitted a document regarding a land transaction between Hatting Billings and Josh Billings from April 1924.¹⁴ Hattie Billings was the daughter of Jacob Billings. The land was described as next to land owned by Alex Billings.¹⁵

There were also several maps submitted by Co-Administrator Geraldine Jacobs, obtained from a land dispute case. All of these maps are hand drawn and they are not labelled as to when they were drawn or by whom they were drawn.¹⁶ Thus, the Court cannot rely upon them as true and accurate evidence of ownership.

The documents and testimony provide evidence that Alexander Billings owned property on [REDACTED] which he obtained from his father Jacob Billings. The notarized statement by Priscilla Herne indicates Sarah Garrow Billings, Alexander's wife, believed she owned the property. However, there is no evidence the property was formally transferred from Alexander Billings, after his death, to his wife, Sarah Garrow Billings. Moreover, there is no evidence that the property was transferred by a probate process from Sarah Garrow Billings to Sarah Billings Jacobs. Thus, the Estates of Alexander Billings and Sarah Garrow Billings must be probated prior to determining if the Estate of Sarah Billings Jacobs possesses an interest in the property on Connors Road.

⁸ Geraldine Jacobs' Testimony, May 14, 2019.

⁹ Geraldine Jacobs Testimony, May 14, 2019.

¹⁰ Geraldine Jacobs Testimony, May 14, 2019.

¹¹ Geraldine Jacobs Testimony, May 14, 2019.

¹² Geraldine Jacobs Testimony, May 14, 2019.

¹³ SRMT Tribal Clerk's Office submission, May 10, 2019.

¹⁴ SRMT Tribal Clerk's Submission, June 10, 2019.

¹⁵ *Id.* The Court has previously recognized the description of boundaries contained in land transaction records as relevant evidence of ownership. *See* Garrow v. Garrow 11-LND-00001 (May 9, 2017).

¹⁶ Plaintiffs' Exhibits #3-5.

The record establishes the following about the property on [REDACTED] Geraldine Jacobs testified that her parents owned the property where they built their home on [REDACTED] [REDACTED]¹⁷ Dominic Jacobs, her great-grandfather, split his property on [REDACTED] [REDACTED] between his two sons Dominic and Levi Jacobs.¹⁸ Dominic Jacobs, her grandfather, gave his land to her father, Abram Jacobs.¹⁹ Her father built a home in 1942 and also a barn and a chicken coop, on [REDACTED]²⁰ The property belonged to her grandfather, Dominic Jacobs.²¹ Dominic Jacobs also gave some property to his daughter, Emma Jacobs Loran.²²

The 1890 Census Map,²³ submitted by Geraldine Jacobs, indicates there was a Dominic Jacobs on [REDACTED] There are several documents showing that his sons, Levi and Abram Jacobs, subsequently owned property in this area, indicating that his father Dominic Jacobs did transfer his property to his sons. Geraldine Jacobs testified that her great-great-grandfather, Dominic Jacobs', property was [REDACTED] given to his sons, Dominic and Levi Jacobs.²⁴ Geraldine Jacobs submitted a document that is a notice from the SRMT Tribal Chiefs to Levi Jacobs, Annie Jacobs, and Abram Jacobs regarding a Chief's hearing on the Dominick Jacobs Estate.²⁵ The notices do not provide any indication of the decision of the Chiefs or the distribution of the Dominick Jacobs property.²⁶ Subsequently, in 1961, Levi Jacobs sold [REDACTED] to William Herne.²⁷ The document describing the transaction describes [REDACTED] Levi Jacobs' [REDACTED] Levi Jacobs' property.²⁸ Geraldine Jacobs also submitted an aerial photo of this area from 1942 from Franklin County Soil and Water Conservation District.²⁹ The aerial photo shows property on [REDACTED] It does not designate ownership. However, Geraldine Jacobs testified and wrote on the aerial photograph that Dominic and Levi Jacobs possessed the property side by side.³⁰ She also indicated the area where a fence between the properties and a gravel pit were located.³¹

The SRMT Tribal Clerk also submitted a written record of a land transaction between Anna Casey Jacobs, Dominic Jacobs' wife and Geraldine Jacobs' grandmother, and Emma

¹⁷ Geraldine Jacobs' Testimony, May 14, 2019.

¹⁸ Geraldine Jacobs' Testimony, May 14, 2019.

¹⁹ Geraldine Jacobs' Testimony, May 14, 2019.

²⁰ Geraldine Jacobs' Testimony, May 14, 2019.

²¹ Geraldine Jacobs' Testimony, May 14, 2019.

²² Geraldine Jacobs' Testimony, May 14, 2019.

²³ Plaintiffs' Exhibit #2.

²⁴ Geraldine Jacobs' Testimony, May 14, 2019.

²⁵ Plaintiffs' Exhibit #1.

²⁶ *Id.*

²⁷ SRMT Tribal Clerk Exhibit, June 10, 2019

²⁸ SRMT Tribal Clerk Exhibit, June 10, 2019

²⁹ Plaintiffs' Exhibit #7.

³⁰ Geraldine Jacobs' Testimony, October 7, 2019.

³¹ *Id.*

Jacobs Loran, Dominic and Anna Jacobs' daughter.³² The property description notes that the late Abram Jacobs, the son of Dominic Jacobs and the husband of Sarah Billings Jacobs, owned property on [REDACTED] Emma Jacobs Loran's property.³³

The Court notes that copies of the alleged Last Will and Testament of Levi Jacobs³⁴ and Emma Loran³⁵ were also submitted as part of the documents gathered by the SRMT Tribal Clerk's Office. However, the SRMT Land Laws and Land Dispute Ordinance outlines different types of evidence that may be considered as evidence of land ownership. Wills are evidence of ownership, but it must be a valid will.³⁶ There is evidence that the SRMT Tribal Council reviewed the alleged Last Will and Testament of Levi Jacob and found it to be valid, as the SRMT Tribal Clerk's Office submitted notes from a September 2, 1972 Chiefs' meeting which state the alleged Last Will and Testament of Levi Jacobs is legal and binding.³⁷ However, there is no description of his property, thus it is not helpful for this case. There is no evidence that the alleged Last Will and Testament of Emma Jacobs Loran was found to be valid. Although it does contain a description of the property, which she received from Levi Jacobs, because the alleged Last Will and Testament has not been subject to the probate process, the Court cannot consider its property description as evidence of ownership.

Given the foregoing, there is evidence that Abram Jacobs owned property on [REDACTED] [REDACTED] However, there is no evidence that this property was legally transferred through a probate process to Sarah Billings Jacob. Moreover, given that there is no definite description of the property, a land survey will be needed.

Geraldine Jacobs also testified that her father, Abram Jacobs, purchased [REDACTED] from Joe Jock.³⁸ When Abram Jacobs purchased the property, Joe Jock gave Abram Jacobs a copy of the document demonstrating that he had purchased the property from Mary Woods.³⁹ After purchasing the property, Abram Jacobs tore down the fence between his property and the property he purchased from Joe Jacobs.⁴⁰ He subsequently put up a new fence; however, after his death the fence was removed by another person.⁴¹

Geraldine Jacobs, Co-Administrator, argues that the Estate owns [REDACTED] where their parents' home was located and [REDACTED] Abram Jacobs purchased from Joe Jock, as Sarah Billings Jacobs inherited both pieces from Abram Jacobs, her husband. Summer

³² SRMT Tribal Clerk Exhibit #8.

³³ The Court has previously recognized the description of boundaries contained in land transaction records as relevant evidence of ownership. *See* Garrow v. Garrow 11-LND-00001 (DATE).

³⁴ SRMT Tribal Clerk document submitted June 10, 2019

³⁵ SRMT Tribal Clerk document submitted June 10, 2019.

³⁶ SRMT Land Laws and Land Dispute Ordinance § IV.E.3.(c). (December 21, 2016).

³⁷ SRMT Tribal Clerk document submitted June 10, 2019.

³⁸ Geraldine Jacobs' Testimony, May 14, 2019.

³⁹ Geraldine Jacobs' Testimony, May 14, 2019; SRMT Tribal Clerk document submission May 10, 2019

⁴⁰ Geraldine Jacobs' Testimony, May 14, 2019.

⁴¹ Geraldine Jacobs' Testimony, May 14, 2019.

Bero, the SRMT Tribal Clerk, testified that deeds have been issued to other individuals for the
⁴² Geraldine Jacobs testified that her parents had discussions with land owners in the area about resolving this land dispute, but nothing had ever been resolved. As the current deed holders are not parties to this case, the Court cannot address this piece of property. The Co-Administrators may pursue a land dispute, if they wish.

ORDER

Based on the above, the it is **adjudged, decreed and ordered** that the Estate of Sarah Billings Jacobs does not currently own any property. The Co-Administrators shall notify the Court by December 28, 2019 if they wish to pursue probating any of the related Estates, otherwise this case will be closed.

Signed this 16th day of November, 2019.



Entered into the docket book

On: November 26, 2019

Signed: Talawadita Bero

Carrie E. Garrow,
Chief Judge
Saint Regis Mohawk Tribal Court

No later than ten (10) days after a judgment is final, a party may ask the Judge for a rehearing, reconsideration, correction vacation, or modification of the judgment. The parties have thirty (30) days from the entry of this Order to file an appeal with the Saint Regis Mohawk Court of Appeals.

⁴² Summer Bero, SRMT Tribal Clerk's Testimony, October 7, 2019.