

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

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<b>Sharon Armstrong,</b>	)	<b>Case No.: 17-LND-00002</b>
<b>Claimant(s),</b>	)	
	)	
	)	
<b>-V-</b>	)	<b>DECISION AND ORDER</b>
	)	
	)	
<b>Ronald Horn,</b>	)	
<b>Respondent(s)</b>	)	

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**Procedural History**

On June 7, 2016 the Claimant, Sharon Armstrong filed a Land Dispute Complaint with the Saint Regis Mohawk Tribal Clerk in which Ronald Horn was named as the Respondent. The Complaint filed requested,

At no time did Sharon Armstrong waive her right to use and occupy the disputed property located at 189 St. Regis Road, Hogansburg, NY, nor did she waive her right to any property of the Estate(s) of Frank and Katie Armstrong.<sup>1</sup>

The Complaint further stated, "...proper distribution of Estate of property of Frank and Katie (Roundpoint) Armstrong be conducted..."<sup>2</sup>

Pursuant to the Saint Regis Mohawk Tribe Land Laws and Land Dispute Ordinance (SRMT LL&LDO) the case was transferred to the Saint Regis Mohawk Tribal Court in December 2016.<sup>3</sup>

The Respondent filed an Answer with the Court on May 26, 2017, alleging that the Claimant was not a rightful heir to the Estate of Frank and Katie Armstrong.

Status conferences were held on April 4, 2017, May 9, 2017, May 30, 2017, June 26, 2017, August 14, 2017, September 18, 2017, October 23, 2017, December 4, 2017, and February 5, 2018.

On September 27, 2017, the Court issued a decision denying a request made in Court that the land dispute in this matter be converted to a probate proceeding.<sup>4</sup>

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<sup>1</sup> Complaint of Sharon Armstrong June 7, 2016.

<sup>2</sup> *Id.*

<sup>3</sup> SRMT LL & LDO § VI. H. I.

<sup>4</sup> Order on Request to Convert Land Dispute to Probate Proceeding September 27, 2017.

<sup>5</sup> Order on Court Motion on Relevancy of Wills.

In an order dated December 21, 2017, the Court decided that the Last Will and Testament of Irene Armstrong and Bertha Horn were not relevant to the matter at bar and would not be considered as evidence.<sup>5</sup>

The Claimant filed a Motion for Summary Judgment on March 1, 2018 stating,

“...the Complainant hereby requests that this Court issue an Order of Summary Judgment in favor of the Complainant because no genuine issues as to any material facts presently exist and Complainant is entitled to such judgment as a matter of law.”<sup>6</sup>

### **Applicable Law**

On December 3, 2009 the Tribal Council enacted SRMT TCR 2009-69, Land Dispute Resolution Ordinance, amended in 2011, (SRMT TCR 2011-20). A new land law, the Land Laws and Land Dispute Ordinance, was enacted on December 21, 2016.

Under the new ordinance, “[a]ll cases filed with but not finally resolved by the Land Dispute Tribunal under the prior Ordinance [LDRO] shall be transferred to the Tribal Court to be heard under this Ordinance.”<sup>7</sup>

The Ordinance draws a distinction between cases “not” finally resolved and those that have been finally resolved by the Tribunal.

In regards to the case at bar, the matter was not taken under consideration by the Land Dispute Tribunal. Thus, this case must be heard under the Saint Regis Mohawk Tribe's Land Laws and Land Dispute Ordinance (SRMT LL&LDO).

The Claimant requests the Court to use the Federal Rules of Civil Procedure.<sup>8</sup> When reading the SRMT law together, it is clear the Court may apply interpretation of like provisions in the Federal Rules of Civil Procedure in construing SRMT Laws and may modify or direct rules or procedures as the Court deems appropriate.<sup>9</sup> As Section XXV of the SRMT Rules of Civil Procedure allows for the use of the Federal Rules of Civil Procedure, this Court hereby allows for the Claimant's motion to be considered requesting partial summary judgment in accordance with the guidelines prescribed in Rule 56 of the Federal Rules of Civil Procedure.<sup>10</sup>

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<sup>6</sup> Complainants' Motion for Summary Judgment March 1, 2018.

<sup>7</sup> SRMT LL&LDO § VIH. 1

<sup>8</sup> Claimants' Motion for Summary Judgment March 1, 2018.

<sup>9</sup> See SRMT Rules of Civ. Procedure § XXV.

<sup>10</sup> See 14-LND-00006 SRMT v Bero Decision on Appellant Motion for Partial Summary Judgment

## **Jurisdiction**

The Saint Regis Mohawk Tribe's Land Laws and Land Dispute Ordinance states that the, "Saint Regis Mohawk Tribal Court shall have jurisdiction over land disputes."<sup>11</sup>

The present matter comes to the Court as a land dispute, thus the Court exercises its jurisdictional authority over the present dispute pursuant to the SRMT LL&LDO.

## **Claimant Motion for Summary Judgment**

In ruling on a motion for summary judgment, the function of the Court is not to decide the issues of material fact, but rather to determine whether such issues exist. If a genuine material issue exists, it must be left to a later determination. The party seeking summary judgment has the burden of showing the absence of any genuine issue as to all the material facts,<sup>12</sup> which under the applicable principals of tribal law entitle the moving party a summary judgment as a matter of law. The party opposing summary judgment must substantiate its adverse claim by showing that there is a genuine issue of material fact.<sup>13</sup>

The Claimant, in their Motion for Summary Judgment stated,

As such, and in light of the fact that all genuine issues of material facts have been previously addressed or otherwise resolved by the Court, there are no remaining disputes to be presented to the Court or at trial.<sup>14</sup>

In their response to the Claimant's Motion for Summary Judgment the Respondent filed a reply which claimed, "...Sharon Armstrong was abandoned at birth and became a ward of the court, breaking all ties to her biological family in question."<sup>15</sup>

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<sup>11</sup> SRMT LL&LDO § VI A. 1.

<sup>12</sup> Fed. R. Civ. P. 56(a) (a) MOTION FOR SUMMARY JUDGMENT OR PARTIAL SUMMARY JUDGMENT (A party may move for summary judgment, identifying each claim or defense - or the part of each claim or defense - on which summary judgment is sought. The 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).

<sup>13</sup> The Court is guided by the analysis set forth in a letter written by former SRMT Chief Judge Peter J. Herne, dated August 13, 2012, addressing a question posed by a party regarding a motion for summary judgment in the case of *12-CIV-00007 Sample Lumber v. Arrow White*, available at, [http://www.srmt-nsn.gov/uploads/site\\_files/Sample\\_Lumber\\_v\\_White\\_12-CIV-00007.pdf](http://www.srmt-nsn.gov/uploads/site_files/Sample_Lumber_v_White_12-CIV-00007.pdf).

<sup>14</sup> Claimants' Motion for Summary Judgment March 1, 2018.

<sup>15</sup> Respondent's Reply to Claimant Motion for Summary Judgment March 26, 2018.

The Respondent included with their reply what appears to be a public notice by the Onondaga County Children's Court requiring the mother of the Claimant Irene Armstrong, to appear and answer the allegation of abandoning the child, Sharon Ann Armstrong.<sup>16</sup>

The Court examined the document submitted by the Respondent which purportedly proves the Claimant has no legal claim to the property of the Estate of Frank and Katie Armstrong. While it appears the Children's Court of Onondaga County summoned the Claimant's mother to answer allegations of child abandonment, the Court was provided with no evidence that the parental rights of Irene Armstrong, the mother of the Claimant, were terminated.

In fact, the Court was provided the birth certificate of the Claimant which listed Irene Armstrong as her mother.<sup>17</sup> A certification from the Saint Regis Mohawk Tribal Clerk was also provided to the Court which stated the Claimant's mother is Irene Armstrong, who is the daughter of Frank and Katie Armstrong.

Although the Respondent has alleged the Claimant is not a rightful heir to the Estate of Frank and Katie Armstrong, the notice from the Onondaga Children's Court does not amount to a material fact being raised which requires the continuance of the land dispute matter. The Respondent failed to provide any proof the parental rights of Irene Armstrong were terminated. Thus, the evidence demonstrating the Claimant is an heir must stand uncontested.

The Claimant, as the moving party, has sufficiently proven to the Court that there are no material facts which require further proceedings and as such is entitled to a judgment as a matter of law. There is ample evidence the Claimant is the daughter of Irene Armstrong, who is the daughter of Frank and Katie Armstrong, the Estate which holds the property at issue in this land dispute.

### Conclusion

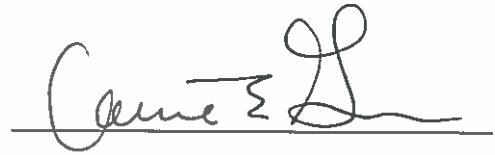
Therefore, it is **ORDERED, ADJUDGED, AND DECREED** that the Claimant's motion for summary judgment is hereby **GRANTED**. The Claimant is an heir to the Estate of Frank and Katie Armstrong and has an interest in the property located at 109 St. Regis Road. Proper distribution of the property of the Estate of Frank and Katie Armstrong requires the filing of a probate action in Saint Regis Mohawk Tribal Court. Until a probate action is filed and completed the property located at 109 St. Regis Road remains in the Estate of Frank and Katie Armstrong. This case is hereby **CLOSED**.

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<sup>16</sup> *Id.*

<sup>17</sup> Record Sharon Ann Armstrong Certificate of Birth March 4, 1945.

Signed by my hand this 11<sup>th</sup> day of June 2018.

A handwritten signature in black ink, appearing to read "Carrie E. Garrow", written over a horizontal line.

Carrie E. Garrow  
Chief Judge  
Saint Regis Mohawk Tribal Court

