

FILED

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**Fort Peck Tribal Court
of Appeals**

Appellate Court
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**FORT PECK COURT OF APPEALS
ASSINIBOINE AND SIOUX TRIBES
FORT PECK INDIAN RESERVATION
POPLAR, MONTANA**

JOANNE TODD, Appellant vs ROBERTA JACKSON and YOLANDA PARSHALL JACKSON, Appellee	CAUSE NO. AP #724 OPINION AND REMAND
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Appeal from the Fort Peck Tribal Court, Marvin Youpee Jr., Judge, presiding. Appellant JoAnne Todd and Appellees Roberta Jackson and Yolanda Parshall-Jackson appeared *pro se*.

Before Smith, Chief Justice, and Shanley and Knudsen, Associate Justices.

¶1 This matter comes before this Court on an appeal initially filed on June 20, 2016 which appears to be challenging a Final Probate Order dated June 9, 2016 which is based on a May 18, 2016 order. The appeal was then re-filed on September 12, 2016 with the appropriate filing fee which was not paid when the appeal was initially filed. Given the original filing was within the time

frame for filing and the procedural error does not appear to be through the fault of the appellant, this court deems the appeal to be timely filed for purposes of addressing the issues raised on appeal.

BACKGROUND

¶2 This matter relates to ownership of a house located at 1113 13th Ave NE, Poplar, Montana [Project 9-31, Unit #64-01]. It appears that initially this had been the home of JoAnne Todd and Roberta Jackson's mother. At some point, Roberta Jackson appears to have begun making homebuyer payments for this Mutual Help Program home, but the record does not contain any evidence regarding the ownership history of the unit prior to March 1, 2006. In a written statement directed to Neil Taylor dated April 30, 2006, Ms. Jackson indicated that JoAnne and Mike Todd had moved into the house, which was the subject of this appeal, and that she wished to sign over responsibility for this property to them. On May 15, 2016, Ms. Jackson updated the Fort Peck Housing Authority housing application. Ms. Jackson stated that she was living in Grand Forks and desired to turn her mother's house over to her sister and brother-in-law, JoAnne and Mike Todd.

¶3 A letter from the Fort Tribal Housing Authority dated January 30, 2012, states that JoAnne Jackson Todd has been residing in Project 9-31, Unit #64-01

since March 1, 2006 and had been responsible for the monthly homebuyer payments. Nothing in the record reflects whom the Fort Peck Housing Authority viewed as having title to the house in question. Nothing in the record reflects that any type of rental agreement was entered into between Roberta Jackson and JoAnne and Mike Todd. Nothing in the record reflects that a title to this housing unit was in Roberta Jackson's name.

¶4 On January 25, 2016, Roberta Jackson signed a Deed of Conveyance, Assignment and Release which conveyed her rights, title and interests, consisting of a leasehold interest in the property located at 1113 13th Ave NE, Poplar, Montana to her brother Don G. Jackson. Nothing in the record reflects the exact nature of Roberta Jackson's interest in connection with this house and the property upon which it stands.

¶5 Subsequent to the January 25, 2016 Deed being signed, Don G. Jackson served JoAnne and Mike Todd with a Notice to Quit by mail. Nothing in the record reflects when the mailed notice was received by JoAnne and Mike Todd, but the notice was reportedly also placed on the door of the house located at 1113 13th Ave NE, Poplar, Montana on January 29, 2016. The notice indicated that occupants needed to vacate the premises on or before February 28, 2016.

¶6 Don Jackson died on February 20, 2016. In his will, Don Jackson asked that his wife, Yolanda Parshall Jackson, be appointed personal representative. The lower court appointed Yolanda Parshall Jackson as personal representative on March 4, 2016. In accordance with his will, Don Jackson gave his wife his interest in the property located at 1113 13th Ave NE, Poplar, Montana. As personal representative, Yolanda Parshall Jackson conveyed her deceased husband's interest in the property located at 1113 13th Ave NE, Poplar, Montana to herself on June 13, 2016.

¶7 The Appellant challenges the lower court's order conveying the house located at 1113 13th Ave NE, Poplar, Montana to Yolanda Parshall Jackson.

JURISDICTION

¶8 The Fort Peck Appellate Court has jurisdiction to review all final orders from the Fort Peck Tribal Court when a timely appeal is made. II CCOJ § 202. The order entered on June 9, 2016 is a final order.

STANDARD OF REVIEW

¶9 This Court has long recognized that it will not disturb lower court factual findings if such findings are supported by substantial evidence. Nor will it overturn a lower court decision if the lower court does not abuse its

discretion. Title II CCOJ §202. Questions of law, however, are reviewed de novo. Title II CCOJ §202.

ISSUES

¶10 The following issues are raised by this appeal:

1. Does the record support the lower courts conclusion that Roberta Jackson owned the home located at 1113 13th Ave NE, Poplar, Montana?
2. Do principles of unjust enrichment apply to this situation?

DISCUSSION

¶11 This matter reflects the complex nature of property issues within Indian country. Few areas of Indian law are more complex than those associated with housing issues on tribal trust lands. Unlike housing on fee land, which is generally considered a fixture attached to the property, houses located on tribal trust home-site leases and assigned to a particular individual are viewed as improvements that may be subject to removal at the expiration of the terms of the assignment. These limits associated with Indian country housing require an evaluation of two different types of property interests when determining ownership of a Mutual Help Program home on a tribal home-site lease.

¶12 The Indian Country Mutual Help Program is no longer a Housing and Urban Development [HUD] program. When the Program existed, it authorized the Fort Peck Tribal Housing Authority to help low-income Indian families purchase a home based on very specific conditions and requirements. The record in this case does not reflect who first accessed the Mutual Help Program to purchase the property located at 1113 13th Ave NE, Poplar, Montana. The information contained in the lower court record does reflect that at some point Roberta Jackson was viewed as responsible for the payments associated with the home in question. This finding is supported by the notification Roberta Jackson provided the tribal housing authority on May 15, 2006, where she stated she wished to turn over her mother's house to JoAnne Todd. What is less clear from the record is the legal effect of this action on the home in question under tribal housing requirements.

¶13 Although the tribal code recognizes the certain landlord tenant proceedings in Title 15, it does not address this type of situation. The Fort Peck Housing Authority's Admission and Occupancy Policy covers the requirements for Mutual Help and Occupancy Agreements [MHOA], including successorship requirements but their impact on this situation is difficult to determine. Without the MHOA included in the record, it is impossible to

evaluate the scope of the agreement and the impact of any subsequent changes in occupancy of the home under the applicable section of the policy.

¶14 Nothing in the lower court's record documents the history of this mutual help homeownership agreement from its inception until Roberta Jackson's action, which purportedly conveyed her interest in the house to Don. G. Jackson on January 25, 2016. This lack of evidence regarding the status of the mutual help ownership agreement make it impossible to determine the exact nature of either Roberta Jackson's or JoAnne Todd's interest in this house at the time of the conveyance.

¶15 A letter dated January 30, 2012 from the Fort Peck Housing Authority, filed with the lower court on May 17, 2016, verified that Joanne Todd had resided in the house in dispute since March 1, 2006, was responsible for the monthly payments and indicated that the home pay-off amount on the date of the letter was \$2, 094.50. There is nothing in the record reflecting that anyone from the Fort Peck Housing Authority testified at any of the various hearings regarding the current status of the Mutual Help Program arrangement pertaining to this home or what the legal implication was for JoAnn Todd being responsible for the monthly mutual help payment for this home under the applicable regulations. No additional information can be found in the record

showing where the total sum owed on this home was ever fully satisfied; nothing in the record reflects to whom the Fort Peck Housing Authority would issue title upon satisfaction of the agreement; nor that any legal title to this house had ever been conveyed to either Roberta Jackson or JoAnne Todd.

¶16 Nothing in the record indicates that there was a formal rental arrangement between Roberta Jackson and JoAnne Todd, and the parties acknowledged that no formal rental agreement existed. Furthermore, it is unclear as to whether a Mutual Help Program home can be occupied in a manner comparable to a rental situation without approval from the Fort Peck Housing Authority. Nothing in the record reflects that the Fort Peck Housing Authority viewed this situation as a rental agreement between the parties.

¶17 Based on the January 30, 2012 letter, it appears that the payment for the home was being made to the Fort Peck Housing Authority, and not to Roberta Jackson. Unfortunately, there is not sufficient evidence in the record to evaluate exactly how payments for the home were made and how such payments would legally implicate the ownership or title of the home.

Although there is reference to JoAnne Todd being responsible for this Mutual Help Program ownership obligation, the extent of repairs and maintenance of the home while JoAnne Todd was residing there is not documented. Exactly

who assumed responsibility for covering maintenance and repair costs associated with this home while JoAnne Todd was residing there is also unclear.

¶18 The lower court did not articulate why it viewed the application to the tribal housing authority as something less than a transfer of interest from Roberta Jackson to JoAnne Todd when Roberta Jackson indicated she was turning over the house to JoAnne Todd in May 2006. Nor did the lower court explain how the arrangement between Roberta Jackson and JoAnne Todd complied with the various Mutual Help Program ownership requirements designed to allow Indian families living in a home to gradually become homeowners of it.

¶19 Although Roberta Jackson can convey any interest she might have in the home located at 1113 13th Ave NE, Poplar, Montana, she cannot convey interests beyond those for which she has a legally-recognized right. Without appropriate documentation in the record, this Court cannot determine the legal extent of Roberta Jackson's interest in this property. Therefore, as a matter of law, this Court cannot evaluate whether Roberta Jackson had the right to convey any interest in the home to her brother, Don. G. Jackson. Any subsequent conveyance of what had been Roberta Jackson's interests in this

property are limited to her conveyable legal interests in the home located at 1113 13th Ave NE, Poplar, Montana. Based on the record, this Court cannot determine as a matter of law that Roberta Jackson had an unencumbered and complete title to the Mutual Help Program home at the time of her conveyance to Don. G. Jackson.

¶20 The objective of the Mutual Help Program was to assist Indian families residing in these homes to build up equity in the home over time. It appears from the record that Roberta Jackson lived in this home for seven years and JoAnne Todd lived in the home for approximately ten years. Since both parties have acknowledged that no rental agreement existed and have also expressed a belief that the home was theirs, any determination of ownership interest in this property should address how the other party should be compensated for their corresponding equity interest in the property. This Court has recognized unjust enrichment concepts can be triggered when a person holding title to property is subject to an equitable duty to convey it to another on the ground that the person holding title would be unjustly enriched if permitted to retain it. *Payne, et. al. v Payne*, FPCOA #212 (1995) and *Bighorn v Spang*, FPCOA # 385 (2003). This type of valuation analysis was not undertaken by the lower court, resulting in Roberta Jackson, Yolanda Parshall Jackson, and any

subsequent beneficiaries in interest potentially being unjustly enriched by JoAnne Todd's contribution towards the home, including the purchase amount associated with ownership and maintenance and improvements made during the ten years Todd and her family resided in the home.

¶21 To equate the various payments made by JoAnne Todd towards this home to rent ignores the fact that there is no rental agreement that put Ms. Todd on notice that the home would not be hers under Mutual Help Program ownership principles. In addition, the monthly Mutual Help Program payments and any maintenance and repair costs incurred by JoAnne Todd could have been used to create equity in a different home if she had been put on notice that this was a rental type situation. Allowing the parties given possession of the home by the lower court to benefit from the equity created by JoAnne Todd's action while she resided in this home would constitute unjustly enrichment and is inconsistent with fundamental fairness and prior decisions of this Court.

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ORDER

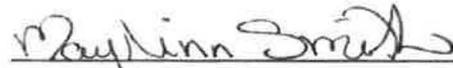
¶22 Based on the above reasoning, this Court finds there is insufficient evidence to support the lower court's finding that as a matter of law the home located at 1113 13th Ave NE, Poplar, Montana belonged to Roberta Jackson. The lower court decision is vacated and the matter remanded back to the lower court for determination of who has legal title of the Mutual Help Program home located at 1113 13th Ave NE, Poplar, Montana in accordance with any applicable law and policies of the Fort Peck Housing Authority. This determination must be made based on sufficient documentation from the Fort Peck Housing Authority showing: 1) the original Mutual Help Program Ownership Agreement pertaining to the home located at 1113 13th Ave NE, Poplar, Montana; 2) the complete history of successorship to the agreement; 3) evidence reflecting the legal impact of the application submitted to the housing authority by Roberta Jackson on May 15, 2006 based on applicable tribal housing requirements relating to the Mutual Help Program; and 4) the equity interests of both JoAnne Todd and Roberta Jackson in this home when the conveyance document was signed on January 25, 2016. These factors are necessary in order to determine legal title and any appropriate compensation

that may be due to the non-prevailing party for all identified equity interests in this home.

SO ORDERED this 29th day of August, 2017.

FORT PECK COURT OF APPEALS

BY



Maylinn Smith, Chief Justice



Erin Shanley, Associate Justice



DANIEL P. KNUDSEN
Associate Justice