

**IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
CIVIL DIVISION**

JACQUELINE M. DEMARCO and	:	
BRAD DEMARCO,	:	
	:	
Plaintiffs	:	
	:	
v.	:	No. 15-2312
	:	
THOMAS ACKER and SABINA	:	
ACKER,	:	
	:	
Defendants	:	
Robert T. Yurchak, Esquire		Counsel for Plaintiffs
Anthony Roberti, Esquire		Counsel for Defendants

MEMORANDUM OPINION

Serfass, J. - September 29, 2017

Thomas and Sabina Acker, (hereinafter "Defendants"), have taken this appeal from the non-jury trial verdict of this Court entered on May 16, 2017, pursuant to which we found that a disputed three feet by fifty feet (3' x 50') section of real estate situated between the parties' properties was rightfully the land of Jacqueline M. DeMarco and Brad DeMarco (hereinafter "Plaintiffs") through a boundary by acquiescence. We file the following Memorandum Opinion pursuant to Pennsylvania Rule of Appellate Procedure 1925(a) and recommend that the aforesaid verdict be affirmed for the reasons set forth hereinafter.

FACTUAL AND PROCEDURAL HISTORY

On September 1, 2015, Plaintiffs filed a complaint against Defendants asserting possession over the three feet wide by fifty

feet long (3' x 50') section of real estate situated between Plaintiffs' and Defendants' properties on West Sixth Street in Jim Thorpe, Carbon County, Pennsylvania. On September 23, 2016, Defendants filed an answer and new matter claiming that they are the record owners of the aforementioned real property.

Following a non-jury trial held before this Court on November 15, 2016, proposed findings of fact and conclusions of law were submitted by counsel for Defendants and counsel for Plaintiffs on December 15, 2016, and December 30, 2016, respectively. On May 16, 2017, following review of counsels' submissions and careful consideration of the evidence presented at trial, this Court issued a decision and verdict.

On August 10, 2017, Defendants filed a Notice of Appeal to the Pennsylvania Superior Court with the Prothonotary of Carbon County. On August 30, 2017, this Court entered an order directing Defendants to file of record, within twenty-one (21) days, a concise statement of the matters complained of on appeal pursuant to Pennsylvania Rule of Appellate Procedure 1925(b). On September 15, 2017, Defendants filed their concise statement in compliance with our order.

DISCUSSION

The sole issue raised by Defendants on appeal – “[w]hether the doctrine of ‘acquiescence’ also called ‘consentable lines’ is also based on the 21-year statute of limitations” – was

specifically addressed in our decision and verdict of May 16, 2017. Relying upon the reasoning contained therein, we have attached a copy of that decision and verdict for the convenience of the Honorable Superior Court and incorporate the same herein.

CONCLUSION

For the reasons set forth in the decision and verdict of this Court dated May 16, 2017, we submit that Defendants' appeal is without merit and respectfully recommend that our verdict be affirmed accordingly.

BY THE COURT:

Steven R. Serfass, J.