IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Terry S. Baltimore and Soni Baltimore, his wife, and Greater Wilkes-Barre Association for the Blind, formerly the Wilkes-Barre Branch of the Pennsylvania Federation of the Blind	:	
v.	:	No. 330 C.D. 2014
	:	Argued: October 7, 2014
Sally Freed and Robert E. Guilday and Licia E. Guilday	:	
Appeal of: Terry S. and Soni Baltimore and the Greater Wilkes-Barre Association for the Blind, and Robert E. Guilday and Licia E.Guilday	:	

BEFORE: HONORABLE ROBERT SIMPSON, Judge
HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE ANNE E. COVEY, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE SIMPSON **FILED: November 5, 2014**

This appeal arises out of a dispute whereby neighboring property owners, Terry and Soni Baltimore (Baltimores), sought reformation of a quitclaim deed.[1] More particularly, the Greater Wilkes-Barre Association for the Blind (Association), granted lakebed along the shoreline owned by the Baltimores and Robert and Licia Guilday (Guildays) (collectively, Neighbors) to Sally Freed

[1] A quitclaim deed is a conveyance of the grantor's interest in the property described rather than the property itself. Greek Catholic Congreg. of Borough of Olyphant v. Plummer, 32 A.2d 299 (Pa. 1943). It does not warrant that the grantor actually owns the property conveyed. Id.

(Freed). Initially, the Association executed a quitclaim deed to Freed for only the lakebed abutting the shoreline Freed owned. However, Freed submitted a "corrective" quitclaim deed, which the Association executed, extending the metes and bounds of the conveyed lakebed an 10 additional feet on either side of Freed's property (Corrective Deed). Neighbors and the Association (collectively, Appellants) appeal from orders of the Luzerne County Court of Common Pleas (trial court) denying their claims for declaratory and equitable relief.

Primarily, Appellants argue the trial court erred in not finding mutual mistake or unilateral mistake so as to nullify or reform the Corrective Deed. Appellants also allege the transaction between the Association and Freed should be nullified as it devalues abutting property without Neighbors' notice or consent. Upon review, we affirm in part, and vacate and remand in part.

I. Background

Freed owns lakeside property between and adjacent to Neighbors. According to the Baltimores' deed, the Baltimores acquired fee simple title to real property in Harveys Lake Borough (Borough) that contains approximately 41 feet of property along the shoreline of Harveys Lake (Lake). The Guildays likewise hold fee simple title to real property in the Borough that contains 20 feet along the shoreline of the Lake. According to the deed recorded at Deed Book 2361, page 725, as to Freed's fee simple title, (Freed Deed), Freed's property contains approximately **32.45 feet** of property along the shoreline of the Lake.

Significantly, whereas the Baltimores, Guildays and Freed own the shoreline abutting the Lake, the Association owns, and conveys title to the lakebed. It is the policy of the Association to convey lakebed to lakeside property owners by quitclaim deed in an amount corresponding to their frontage along the shoreline.

In October 2004, Freed sought the original deed from the Association. It stated in relevant part: "it being the intent of this deed to convey to the Grantees [Freed] herein a portion of the lakebed of Harveys Lake lying immediately to the front of property owned by her and described in the aforeseaid deed in Deed Book 2361 at page 725[]" (Statement of Intent). Reproduced Record (R.R.) at 572a (emphasis added). The original deed also contained a metes and bounds description that erroneously stated that Freed had **31.97** feet of shoreline along the lakebed. In consideration, Freed paid the Association $500.00.

Almost seven months later, Freed's counsel sent the Corrective Deed he drafted to the Association's counsel, who forwarded it to the President of the Association to execute. The Corrective Deed did not restate the prior Statement of Intent, instead stating "it being the intent of this deed to correct an erroneous description as set forth in Deed to Grantee herein recorded in the Luzerne County Deed Book 3004, at page 251814 [sic] [the original deed]." R.R. at 576a.

Prior to seeking the quitclaim deeds, Freed built a temporary dock along her shoreline, leaving only eight inches between her dock and the Baltimores' pre-existing dock. The Borough sent Freed a notice of violation dated September 29, 2004, that her temporary dock did not comply with the Borough's

10-foot setback requirements. R.R. at 620a. Freed sought the deeds from the Association to meet the setback requirements for Freed's temporary dock.

Relevant here, the Corrective Deed recited the previous metes and bounds description, *plus* an additional 10 feet of the lakebed on either side of the prior description in the original deed. Thus, the Corrective Deed purported to convey 10 feet of the lakebed in front of the Baltimores' property and in front of the Guildays' property, for a total of **51.97 feet** of lakebed. The Corrective Deed thus includes within its description a portion of Neighbors' docks in the lakebed in front of their respective properties. Freed paid no additional consideration reflecting the value of the additional 20 feet of lakebed conveyed.

Three years after the execution of the Corrective Deed, counsel for the Association sent a letter to Freed's counsel questioning its purported "corrective" status. The Association advised that based on a survey, the deed was not a correction, but rather an enlargement. Freed's counsel replied he was acting on representations that the additional 10 feet was an extension of his client's ownership. Freed's counsel did not verify the accuracy of Freed's representation.

When the Association requested rescission of the Corrective Deed so as not to convey the lakebed in front of Neighbors' properties, Freed declined.

Consequently, the Baltimores and the Association filed a complaint against Freed and the Guildays containing three counts: Quiet Title pursuant to Pa.

R.C.P. No. 1061[2] (Count I); Declaratory Judgment as to the proper boundaries of the title conveyed (Count II); and, Reformation of a Deed in Equity (Count III).

The trial court conducted a one-day bench trial, where witnesses for the Baltimores, Freed and the Association testified.

Joel Freed, an attorney, testified on behalf of his wife, Sally Freed, the grantee. He testified the purpose of getting a quitclaim deed in the first instance was to satisfy the Borough's setback restrictions. He testified the Corrective Deed accomplished Freed's intention to acquire an additional 10 feet of lakebed on either side of the property. He believed the Corrective Deed "validated the original purpose and thereby met the litigation needs[3] of the original Deed." F.F. No. 28.

Paula Bregman, the Association's attorney on a volunteer basis, received the original deed and the Corrective Deed on the Association's behalf, and she sent the deeds to the Association for execution. For 20 years, she counseled the Association in connection with issuance of quitclaim deeds conveying lakebed to property owners at the Lake. She did not read the Corrective Deed to ensure it corrected the metes and bounds description or compare the metes and bounds descriptions in the two deeds. Rather, she relied on her past dealings with Freed's attorney who drafted the deeds, believing they would comport with the

[2] A quiet title action may determine the validity of any deed affecting any right or interest in land. Pa. R.C.P. No. 1061(b)(2). However, equitable reformation of deeds is not available under Pa. R.C.P. No. 1061. MacKubbin v. Rosedale Mem'l Park, Inc., 198 A.2d 856 (Pa. 1964).

[3] In separate litigation, this Court addressed Freed's setback dispute in Freed v. Harveys Lake Borough Zoning Hearing Board (Pa. Cmwlth., No. 1140 C.D. 2007, filed March 12, 2008), alloc. den., 959 A.2d 930 (Pa. 2008). Reproduced Record (R.R.) at 599a-606a.

Association's policy. Attorney Bregman was induced to believe Freed drafted the Corrective Deed merely to correct a scrivener's error, not to expand the conveyance.

Glenn Lee Johnson, a professional land surveyor, presented testimony as an expert witness on behalf of the Baltimores (Surveyor). Surveyor is familiar with the quitclaim deeds at the Lake, and he maintains a record that represents virtually all quitclaim deeds ever conveyed at the Lake. He testified about the Association's policy to convey only the lakebed owned along the shoreline. Surveyor prepared a survey that depicts the conveyance in the Corrective Deed as 10 feet in front of Neighbors' property. He testified that the fact the Corrective Deed is recorded constitutes a cloud on title, and precludes Neighbors from providing a warranty deed with respect to their properties.

To determine what right or interest in property the Corrective Deed created, the trial court initially considered the interest of the Association.[4] Ultimately, however, the trial court declined to determine the Association's interest, stating the burden of proving ownership was on the Baltimores and the Association. As they did not meet their burden of proving title to the lakebed, the trial court denied the quiet title and declaratory judgment claims (Counts I and II).

[4] The trial court referenced an uncodified act which declared the Lake to be a navigable water and public highway. Accordingly, the Lake is held in the public trust, rendering any ownership interest in the lakebed subservient.

Appellants do not challenge the trial court's denial of the quiet title action. Nevertheless, the Lake's status as a navigable waterway held in public trust is not relevant to the Corrective Deed's validity because a grantor does not warrant ownership in a quitclaim deed.

With respect to the Corrective Deed, the trial court found the intent of the Corrective Deed was to correct an erroneous description. Although it noted "there is evidence as to the intent of [the Association]," the trial court concluded "there is no restriction as to the intent within the [Corrective Deed]." Tr. Ct., Slip Op., 11/21/13, Conclusion of Law (C.L.) No. 12. The trial court's findings focused on Freed's intent and understanding at the time of executing the Corrective Deed.

Notably, the trial court found the Corrective Deed "clearly shows an enlargement." Tr. Ct., Slip. Op., Finding of Fact (F.F.) No. 24. The trial court also found that "[a]s reflected in the Freed Deed, the width of said property along the shoreline of Harveys Lake is approximately 32.45 [feet]." F.F. No. 19.

Ultimately, the trial court denied equitable reformation (Count III) as it found "no mutual mistake." R.R. at 665a (emphasis added) (11/21/13 Order).

The Neighbors and the Association filed post-trial motions. In their motions, Appellants asserted the trial court did not address their argument that the Corrective Deed was void based on the Association's unilateral mistake. They also argued the evidence established a mutual mistake. Neighbors further contended the transaction unlawfully impaired their right to enjoy and their ability to convey their property. The trial court dismissed the post-trial motions, stating, in pertinent part, "[Appellants] have failed to present evidence and argument pursuant to the bench trial held in this matter to substantiate a unilateral mistake on the part of the [Association]." R.R. at 676a-77a (emphasis added) (2/4/14 Order). The trial court subsequently entered judgment in Freed's favor. R.R. at 664a.

Appellants filed a joint notice of appeal.[5]

II. Discussion

Appellants assign error to the trial court in failing to find that the equities weigh in favor of reforming the Corrective Deed to comply with the Association's policy, which corresponds to the Statement of Intent in the original deed. Collectively, they argue equitable reformation is compelled on three grounds.[6] First, Neighbors assert they are innocent victims whose property rights are impaired by the Corrective Deed, which should not have been executed without their knowledge or consent. Second, Appellants argue the trial court erred in finding there was no unilateral mistake when the Association admitted it mistakenly conveyed lakebed along the shoreline owned by Neighbors, and the mistake was material to the transaction. Third, Appellants contend the trial court's finding of no mutual mistake was contrary to the weight of the evidence.

A. Equitable Reformation

1. Burden of Proof

To prevail on a claim of mistake, Appellants face a high burden. To show mistake as grounds for reformation:

[5] This Court's review is limited to determining whether the trial judge "committed an error of law or abused his or her discretion. The findings of fact made by the trial court will not be disturbed unless they are unsupported by competent evidence or are demonstrably capricious." Daddona v. Thorpe, 749 A.2d 475, 480 (Pa. Super. 2000) (citations omitted).

[6] As a separate basis of reversal, Neighbors also contend the Association lacked the right to convey lakebed to Freed. However, as this issue is not briefed, we do not consider it.

> it must clearly appear by the testimony of witnesses who distinctly remember the facts that a mistake was made, and that the writing does not express the agreement. The testimony must be clear, precise, and indubitable, and of such weight and directness as to carry conviction to the mind.

Bosler v. Sun Oil Co., 190 A. 718 (Pa. 1937). As our Supreme Court repeatedly explained:

> A person who seeks to rectify a deed on the ground of mistake must establish, in the clearest and most satisfactory manner, that the alleged intention to which he desires it to be made conformable continued concurrently in the minds of all parties down to the time of its execution.

Id. at 722; see also Miller v. Houseworth, 127 A.2d 742, 744 (Pa. 1956) (citing In re Ridgway's Account, 56 A. 25, 26 (Pa. 1903)). "Equity will not grant relief in cases of mistake (of fact) except on very clear proof." Bosler, 190 A. at 722. Thus, Appellants must prove the elements of mistake by clear and convincing evidence.

To support reformation in cases of unilateral mistake, the party seeking to prove mistake must not only prove the mistake occurred, but also that the other party had knowledge of it. Moreover, the party seeking reformation must show that the actual intent of the parties supports his claim for relief. See Bosler; Three-O-One Market, Inc. v. Dep't of Pub. Welfare, 439 A.2d 909 (Pa. Cmwlth. 1982).

Accordingly, Appellants must show that the Corrective Deed does not correctly express the intent of one or both parties, by virtue of mistake by at least one party, and knowledge of the mistake by the other.

2. Grounds for Reformation Generally

a. Mutual Mistake

Reformation of a deed is permitted upon evidence of mutual mistake. Regions Mortgage, Inc. v. Muthler, 889 A.2d 39 (Pa. 2005); Brown v. City of Phila. (Pa. Cmwlth., No. 293 C.D. 2007, filed Feb. 21, 2008), 2008 WL 9405070, at *6. A mutual mistake is a mistake that is shared and relied on by both parties to a written instrument. Regions Mortgage; Dudash v. Dudash, 460 A.2d 323 (Pa. Super. 1983).

The fact, however, that one of the parties denies that a mistake was made does not prevent a finding of mutual mistake. Bollinger v. Cent. Pa. Quarry Stripping & Const. Co., 229 A.2d 741 (Pa. 1967); Kutsenkow v. Kutsenkow, 202 A.2d 68 (Pa. 1964). A deed may be reformed as to the property description, despite one party's denial that a mistake was made. Krieger et al. v. Rizzo and Rizzo, 161 A. 483 (Pa. Super. 1932). In addition, "irrespective of actual fraud, if the other party knows or has good reason to know of the unilateral mistake, relief will be granted to the same extent as a mutual mistake." McFadden v. Amer. Oil Co., 257 A.2d 283, 289 (Pa. Super. 1969) (citing Cook v. Liston, 43 A. 389, 390 (Pa. 1899)).

The testimony of Mr. Freed is clear that the purpose of correction was to acquire an additional 10 feet of lakebed on each side of Freed's property to meet setback requirements, so Freed could maintain her temporary dock. Thus, the purpose of the grantee was met by the Corrective Deed.

However, Neighbors assert this purpose no longer exists under our decision in Freed v. Harveys Lake Borough Zoning Hearing Board (Pa. Cmwlth., No. 1140 C.D. 2007, filed March 12, 2008). Based on the Corrective Deed at issue here, this Court noted Freed owned 10 feet of lakebed on either side of the dock. However, the deed only conveyed *lakebed*, and did not include the *shoreline*, which is owned by Neighbors. Because the dock also connected to the Freed's shoreline, it did not meet the 10-foot setback requirement. As this Court upheld the zoning hearing board's decision requiring removal of Freed's dock, Neighbors are correct that the extension of 10 feet of lakebed by the Corrective Deed did not effectuate Freed's ultimate intent to maintain a dock there. Nonetheless, Freed's mistake about the legal effect of owning the lakebed is not a mistake as to the property conveyed. Freed intended to acquire the additional 20 feet of lakebed.

We also note, when one party is guilty of "supine negligence," reformation based on mutual mistake may be barred. Uniontown Sav. & Loan Co. v. Alicia Land Co., 13 A.2d 65, 67 (Pa. 1940). A mistake may be construed against a party when she fails to read a deed put before her for execution. Bosler.

Counsel for the Association did not read the Corrective Deed, or try to compare the original deed with the Corrective Deed as to the metes and bounds

description. There is no dispute the Association signed the Corrective Deed without knowledge of its contents relying on its past history with Freed's counsel. These factors are valid considerations when evaluating a claim of mistake, both to determine the parties' intent at the time they entered the transaction, and to weigh the equities involved.

b. Unilateral Mistake

A deed may be reformed on grounds of mistake by one party with knowledge of the other party. Hassler v. Mummert, 364 A.2d 402 (Pa. Super. 1976). Reformation is appropriate when the non-mistaken party has good reason to know, or should have known, of the mistake. Dep't of Educ. v. Miller, 466 A.2d 791 (Pa. Cmwlth. 1983); McFadden. However, it is "necessary that the mistake as well as the actual intent of the parties be clearly shown." Hassler, 364 A.2d at 403 (citing Rusciolelli v. Smith, 171 A.2d 802 (Pa. Super. 1961)).

Accordingly, absence of a mutual mistake does not end our inquiry. A unilateral mistake may merit equitable reformation under certain circumstances.

3. Neighbors' Entitlement to Notice or Consent

Essentially, Appellants assert the transaction is void as an unlawful conveyance because the Corrective Deed encumbers Neighbors' property without prior notice or consent. Neighbors contend their property will be devalued because the Corrective Deed places a cloud on title to the lakebed abutting their shoreline. The Corrective Deed also prevents Neighbors from full enjoyment of their boat docks, which was contrary to the Association's policy for quitclaim conveyances.

Freed responds that notice and consent was not necessary because the Association is not required to consult third parties when conveying its interest in property. Further, Neighbors have no right to notice of the conveyance when they have no right in the lakebed conveyed. Additionally, Freed notes that Neighbors' allegation that their property lost value resulting from the Corrective Deed (and alleged cloud on title it ostensibly created), was not argued to the trial court. Thus, there is no evidence of economic damages.

Of significance, Appellants cite no authority to support their contention that Neighbors were entitled to notice or an opportunity to consent to the Corrective Deed. Appellants also cite no legal support for their theory that reformation is necessary to protect the interests of neighboring property owners as "innocent victims" or "innocent third parties." See Appellants' Br. at 5, 29, 31. Our research reveals none.

It is also significant that Neighbors did not submit any evidence of any ownership interest in the 10 feet of lakebed that was allegedly "unlawfully conveyed." See Appellants' Br. at 25. Appellants conceded at argument that the Association did not previously convey the extra 10 feet of frontage to Neighbors, such that Neighbors have no preexisting ownership interest in the lakebed to preclude the Association's conveyance to Freed. Ownership of the lakebed is distinct from ownership in the shoreline, which is not established in the Corrective Deed. Freed v. Harveys Lake Borough Zoning Hearing Bd. Therefore, the alleged cloud on the Neighbors' titles to the shoreline is not evident.

Moreover, Neighbors submitted no evidence during the bench trial to show any damages as a result of the Corrective Deed. While the conveyance of the extra 10 feet of lakebed encroaches on Neighbors' enjoyment of and ability to repair their docks, which are located within the Corrective Deed's description, Neighbors did not plead a claim for trespass, which can occur without damages.

This Court agrees with the trial court that Neighbors did not state a claim for economic damages resulting from the alleged cloud on title created by the Corrective Deed. Moreover, Neighbors did not show grounds for reformation based on an alleged adverse impact of the transaction on their properties.

B. Association's Unilateral Mistake

Appellants assert the trial court erred in not analyzing their claim that the Corrective Deed should be reformed on the ground of unilateral mistake. Appellants argue the evidence reflects the Association did not intend to convey more than the lakebed directly in front of the property Freed owned. The materiality of that mistake prevented a meeting of the minds, and necessitates nullification of the Corrective Deed. Appellants also assert this material mistake as to the 10 feet of disputed lakebed was known by Freed's counsel, and thus by Freed.

Freed responds that the conveyance by the Corrective Deed was not a unilateral mistake entitling Appellants to reformation of the metes and bounds description in the deed. Freed notes the Association was represented by counsel who did not read the description in the Corrective Deed before presenting it to the Association's President for execution. In addition, Freed emphasizes deeds are construed against the grantor, which is the Association here.

Knowledge of a unilateral mistake by the non-mistaken party (Freed) may justify relief as fully as a mutual mistake. Hassler. Thus, a unilateral mistake may be held against a non-mistaken party with knowledge that the written instrument does not embody the intent of the other party. Line Lexington Lumber & Millwork Co., Inc. v. Pa. Publ'g Corp., 301 A.2d 684 (Pa. 1973). Under such circumstances, the non-mistaken party is estopped from relying on the mistake. Id.

In construing the meaning of deeds, like other written instruments, the court must attempt to ascertain the parties' intent. See Southall v. Humbert, 685 A.2d 574 (Pa. Super. 1996). When there is "doubt as to the intent of a deed or conveyance, the surrounding circumstances, and the acts of the parties at and subsequent to the transaction may be considered to ascertain it." Appeal of Miner, 61 Pa. 283 (1869). Parol evidence, such as earlier drafts or deeds, is relevant to discern intention of the parties in cases where mistake of one or both parties is asserted. Evans v. Marks, 218 A.2d 802 (Pa. 1966).

Freed contends the terms of the Corrective Deed are the clearest indication of the Association's intent, such that no parol evidence as to that intent should be considered. The Association, as grantor, should be held to the terms of the Corrective Deed. Freed repeatedly emphasizes that "the deed is to be construed **most strongly against the grantor**." Appellee's Br. at 16, 18 (emphasis in original).

However, review of the cases Freed cites for this proposition show it is limited to when the grantor is the drafter. See, e.g., Advance Indus. Supply Co. v. Eagle Metallic Copper Co., 109 A. 771, 772-73 (Pa. 1920) (stating as to deed drafted by grantor's counsel, it is "their deed, [and] all real doubts to the extent of the grant must be resolved against them"); In re Smith's Estate, 69 Pa. Super. 376, 386 (1917), 1918 WL 2252, at *6 (citing City of Phila. v. Peters, 18 Pa. Super. 388, 393 (1901), 1901 WL 3853, at *3 ("A deed or grant must be construed most strongly against the grantor, because the words are his.")).

Thus, it is more accurate to state that in cases of ambiguity, as with other written instruments, a deed is construed against the drafter. Here, there is no dispute that Freed's counsel drafted the Corrective Deed. Further, in the cases Freed cites, the courts reviewed other documents in order to discern intent.

Corrective deeds, if unilaterally "corrected" in a way which does not reflect prior deeds' intent, may be rejected. In Logston v. Penndale, Inc., 576 A.2d 59 (Pa. Super. 1990), our Superior Court upheld restrictive covenants in earlier deeds, thus rejecting a corrective deed that unilaterally removed the restrictions. The Court held the intent was clear that the restriction on sale of alcoholic beverages was to run with the land, and unilateral removal of the restriction to reflect a buyer's intent was improper. While it reflected the buyer's intent to have no restriction, it was an alteration of rights, not a correction.

Based on our Supreme Court's reasoning in Line Lexington Lumber, Appellants argue the Corrective Deed should be reformed to conform to the intent

stated in the original deed. In Line Lexington Lumber, the parties sought reformation of insurance policies. The trial court sustained preliminary objections in the nature of a demurrer as to the reformation claim. Our Supreme Court reversed, reasoning the appellants stated a cause of action for reformation of a contract.

In Line Lexington Lumber, the party seeking reformation alleged the insurer knew of the intent to name it as insured, and had been directed to do so by the entity the insurer covered. Relevant here, our Supreme Court reasoned that while "[o]rdinarily, a mistake must be mutual to the parties to the contract in order to justify reformation of a written instrument on the basis of mistake," mistake by one party may suffice when the other party has knowledge of the mistake. Id. at 687. Thus, a unilateral mistake, with knowledge by the other party, may justify reformation "as fully as a mutual mistake." Id.

Our Supreme Court explained "a party who knowingly causes a written instrument to fail to embody the intent of the other party is estopped from relying on such defect in the instrument. Moreover, where the first party knows what the other party actually intended, the instrument will be reformed to conform to that intention." Id. at 687-88 (emphasis added).

In light of the foregoing, some aspects of the trial court's treatment of the unilateral mistake issue make appellate review difficult. First, Freed drafted the Corrective Deed, and presented it as a "corrective" deed, when it did not "correct" but rather enlarged the conveyance. F.F. No. 24.

Second, there is no determination of the "error" in the original deed that necessitated correction. No evidence established that the correction corresponded to a specific grant in real property. Indeed, the additional 20 feet set forth as metes and bounds in the Corrective Deed does not correspond to the Freed Deed, as the trial court recognized. F.F. No. 19.

Third, the trial court found that Freed's counsel believed the additional 10 feet on each side reflected his client's legal ownership. F.F. No. 23. However, the trial court did not determine whether that belief was reasonable, or even plausible. Thus, the trial court did not resolve Freed's disputed claim of an oral agreement of Terry Baltimore to an expansion of shoreline access allegedly enjoyed by Freed.[7] F.F. No. 26. Further, there was no evidence whatsoever to support an expansion of 10 feet of shoreline on the Guilday side.

Fourth, it is not apparent that the trial court construed the original deed and the Corrective Deed together to discern the parties' intent, particularly as to survival of the original Statement of Intent. The Corrective Deed does not state that the original deed no longer applies, and it does not necessarily supplant it, but rather "corrects" it. Construing the deeds together appears to be consistent with the parties' positions. Thus, in her answer to interrogatories, Freed stated the terms and conditions of the original deed and Corrective Deed need to be "read together and not independently of each other." R.R. at 609a. Also, in her brief Freed states:

[7] See 1 Ronald M. Friedman, Ladner Pennsylvania Real Estate Law, §11.06 (6th ed. 2013) (doctrine of consentable lines). The elements required to establish title under this doctrine are: (1) a dispute as to the location of a common boundary; (2) establishment of a common boundary by compromise; and, (3) surrender by *both* parties of claims inconsistent with the line. Id.

"[the original deed] and Corrective [] Deed, together, are clear, specific, and precise as to their collective intent and the metes and bounds description of the lakebed being conveyed." Appellee's Br. at 22 (emphasis added).

Fifth, the trial court erred in not making findings that would show the intention of *both* parties to the Corrective Deed. It stopped its analysis when it determined Freed's intent. The trial court should have considered the Association's intent and whether the Association made a unilateral mistake, which, with knowledge of the non-mistaken party, may justify reformation. Line Lexington Lumber.

Therefore, this Court vacates the trial court's orders denying relief under Count III (equitable reformation), and remands this matter to the trial court to make additional findings on the existing record.

C. Weight of the Evidence and Relevance of Policy

Lastly, Appellants argue the trial court's decision was contrary to the weight of the evidence of mutual mistake. The trial court erred in not considering the impact of the Association's policy and Freed's knowledge of the policy at the time her counsel drafted the Corrective Deed. The policy establishes the Association's intent to only convey lakebed corresponding to shoreline owned by the grantee. The evidence reflects a course of conduct by the Association in executing quitclaim deeds, which policy was known to Freed's counsel.

Freed replies that the policy is wholly irrelevant to whether a mistake occurred, or to determining the reformation issue. She argues the testimony shows Freed acquired exactly the title she sought to acquire, and the Association "conveyed exactly what was to be conveyed." Appellee's Br. at 21.

The trial court did not make any findings regarding the Association's policy. Also, the trial court did not make any findings as to the relevance of the policy in showing the Association's intent and in showing Freed's knowledge of that intent. Although it noted, "there is evidence as to the intent of [the Association]," C.L. No. 12, the trial court did not describe the evidence.

We agree with Appellants that the Association's policy regarding execution of quitclaim deeds is relevant as to its intent in executing the Corrective Deed. Evidence of such matters should be considered before denying an equitable reformation claim. The failure of the trial court to address these matters impedes our appellate review.

Nevertheless, as to the evidence of mutual mistake, we agree with the trial court that Freed and the Association did not share the same mistaken intent. Regions Mortgage; Dudash. Based on Joel Freed's testimony, the trial court concluded there was no mistake on the part of Freed. Unlike the Association, Freed did not intend the conveyance to be confined to her shoreline boundaries set forth in the Freed Deed. Lacking clear evidence that Freed made this mistake, the trial court did not err in denying reformation based on mutual mistake. Id.

Therefore, we hold the trial court's conclusion that no *mutual* mistake occurred is not against the weight of the evidence.

III. Conclusion

In sum, although the trial court properly held Appellants did not establish mutual mistake, the trial court did not explain its reasoning for denying reformation under a theory of unilateral mistake. The trial court made no findings regarding the Association's intent, or Freed's knowledge of that intent. Further, it is not clear that the trial court construed the original deed and Corrective Deed together to discern the parties' true intent. Although such findings are not essential to deny a claim for reformation under a theory of mutual mistake, such findings are necessary to determine whether actionable unilateral mistake occurred.

Based on the foregoing, we vacate the judgment the trial court entered in Freed's favor, and remand to the trial court to more fully resolve Appellants' claim for equitable reformation based on unilateral mistake, on the existing record. Specifically, the trial court is directed to make findings about the Association's intent and Freed's knowledge of that intent based on the policy and on the prior course of conduct between the parties' counsel.

ROBERT SIMPSON, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Terry S. Baltimore and Soni Baltimore, his wife, and Greater Wilkes-Barre Association for the Blind, formerly the Wilkes-Barre Branch of the Pennsylvania Federation of the Blind	:	
v.	:	No. 330 C.D. 2014
Sally Freed and Robert E. Guilday and Licia E. Guilday	:	
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O R D E R

AND NOW, this 5th day of November, 2014, the judgment entered by the Court of Common Pleas of Luzerne County in favor of Appellee Sally Freed on February 18, 2014, is hereby **VACATED**.

AND FURTHER, the trial court's February 4, 2014 order disposing of post-trial motions is **AFFIRMED IN PART**, as to a claim for damages based on the trial court's November 21, 2013, opinion and order, and **VACATED IN PART** and the matter is **REMANDED** as to the denial of the equitable reformation claim in Count III of the Complaint filed November 13, 2012.

AND FURTHER, the trial court's November 21, 2013 order, to the extent it denied relief sought in Count III, and concluded the corrective deed stands, is hereby **AFFIRMED IN PART** as to mutual mistake, and **VACATED**

IN PART, and the matter **REMANDED** so the trial court may fully address Appellants' unilateral mistake argument. The November 21, 2013 order remains effective as to its disposal of Counts I and II, not here before us.

IN ADDITION, the trial court is directed to make additional findings on the existing record in accordance with this opinion.

Jurisdiction is relinquished.

ROBERT SIMPSON, Judge