

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

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| MABYLEAN DURANTE | : | IN THE SUPERIOR COURT OF |
| | : | PENNSYLVANIA |
| | : | |
| v. | : | |
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| RAMONA POLANCO, RAMON A. | : | |
| ROSARIO, AND GABRIEL RIVERA | : | |
| SANCHEZ | : | No. 1114 EDA 2024 |
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| APPEAL OF: RAMONA POLANCO | : | |

Appeal from the Order Entered March 19, 2024
In the Court of Common Pleas of Philadelphia County Civil Division at
No(s): 220501962,
220802368

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| v. | : | |
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| GABRIEL RIVERA SANCHEZ, | : | |
| RAMONA POLANCO, AND RAMON A. | : | |
| ROSARIO MABYLEAN DURANTE | : | No. 1149 EDA 2024 |
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| | : | |
| v. | : | |
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| RAMONA POLANCO, RAMON A. | : | |
| ROSARIO, AND GABRIEL RIVERA | : | |
| SANCHEZ | : | |
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| APPEAL OF: RAMON A. ROSARIO | : | |

Appeal from the Order Entered March 19, 2024
In the Court of Common Pleas of Philadelphia County Civil Division at
No(s): 220802368 / 220501962

BEFORE: DUBOW, J., KUNSELMAN, J., and FORD ELLIOTT, P.J.E.*

MEMORANDUM BY DUBOW, J.:

FILED APRIL 29, 2025

In these appeals, which we have consolidated *sua sponte*, Appellants Ramon Rosario (“Mr. Rosario”) and Ramona Polanco (“Ms. Polanco”) (collectively, “Appellants”) appeal from the March 19, 2024 orders entered in the Philadelphia County Court of Common Pleas denying their motions for post-trial relief in this quiet title action.¹ After careful review, we affirm.

On May 20, 2022, Appellee, Mabylean Durante, filed at Docket No. 1962-2022, a complaint seeking cancellation of an allegedly forged deed, restoration of her title to 4322 Pilling Street in Philadelphia (the “Property”), ejectment of the then-current occupants of the Property, and damages. Ms. Durante named as defendants Mr. Ramon Rosario and Mr. Gabriel Rivera Sanchez.

In the complaint, Ms. Durante stated that she had acquired ownership of the Property by deed in March 2011. She alleged that she retained

* Retired Senior Judge assigned to the Superior Court.

¹ In a quiet title action, the judgment of the court entered following disposition of the action after a bench trial is final for purposes of appeal. Pa.R.Civ.P. 1066(b). Pursuant to Pa.R.Civ.P. 1061(a), parties must file post-trial motions in quiet title actions to preserve issues for appellate review. **See** Pa.R.Civ.P. 1061(a); ***Kennel v. Thomas***, 804 A.2d 667, 668 (Pa. Super. 2002). The Rules do not, however, require the court to re-enter judgment following disposition of the post-trial motions.

ownership of the Property at all times since March 2011,² and never executed a deed conveying title of the Property to anyone. She further alleged that, nevertheless, defendants Mr. Rosario and Mr. Rivera Sanchez conspired to defraud of her of ownership of the Property by forging her signature on a deed notarized by Mr. Rosario on September 24, 2019, and recorded on November 14, 2019 (the "2019 Deed"), conveying ownership of the property to Mr. Rivera Sanchez. In particular, she alleged that Mr. Rosario falsely notarized the forged 2019 Deed either negligently or fraudulently.

On August 19, 2022, Ms. Durante filed, at Docket No. 2368-2022, a complaint in quiet title seeking the same relief as in the complaint at Docket No. 1962-2022. Ms. Durante again named as defendants Mr. Rosario and Mr. Rivera Sanchez,³ and added as a defendant Ms. Ramona Polanco, who lived at the Property at the time Ms. Durante initiated the quiet title action.

On June 6, 2023, after the parties had filed answers, new matter, and counterclaims at both docket numbers, the trial court consolidated the cases for purposes of discovery and arbitration.

The parties proceeded to a bench trial on October 5, 2023. Mr. Rosario testified that Mr. Rivera Sanchez and someone who he believed was Ms.

² During this period, Ms. Durante maintained her primary place of residence in the Virgin Islands and her son, Ermant Durante, occupied the property for several years.

³ Ms. Durante was never able to locate and serve Mr. Rivera Sanchez with either complaint, he never participated in the trial, and he is not a party to this appeal.

Durante approached him on September 24, 2019, to notarize a deed transferring title to the Property to Mr. Rivera Sanchez. He testified that he properly identified both parties by verifying their state-issued identifications and notarized the deed under the belief that it was Ms. Durante who appeared before him and that the transfer was proper. He testified, however, that he had lost the logbook containing his record of the transactions, so he had no available record verifying the transaction or the identity of the person claiming to be the transferor. He also testified that he was not good at remembering faces, but that Ms. Durante seemed “somewhat” familiar to him.⁴

Ms. Durante testified that she purchased the Property in 2011 for her son and his children for \$23,000.⁵ She further testified it was not she who signed the deed transferring the Property in 2019 because she was in the Virgin Islands, where she lived, at the time of the alleged transfer in Philadelphia, and she did not authorize anyone to sign on her behalf. She also testified that the signature on the deed did not match her own signature.

Anabel Polanco, Ramona Polanco’s daughter who was present for most, if not all, of the events relevant to the suit also testified. She testified that in June 2020, Mr. Rivera Sanchez, who was previously unknown to the Polanco family, approached her brother in the mini market her brother owned, and announced that he was seeking a buyer for the Property. Anabel Polanco

⁴ N.T. Trial, 10/5/23, at 121.

⁵ Ermant Durante also testified at trial.

testified that Mr. Rivera Sanchez claimed to be the owner of the Property and showed it to the Polanco family. Anabel Polanco testified that, when the family went to see the Property, it was in terrible condition with a hole in the roof, broken windows, evidence of a fire in one of the rooms, and missing parts to utilities services. Nevertheless, the Polanco family purchased the Property in good faith for a cash price of \$35,000. The recorded sale price, however, was only \$5,000. Anabel Polanco testified that her mother does not speak English and did not read or have any of the documents translated for her prior to signing them. Mr. Rosario again acted as notary on this transaction and was, thus, responsible for identifying the parties.

Anabel Polanco testified that, shortly after purchasing the Property, her mother became aware that there were \$7,845.75 in unpaid taxes on the Property, and her family paid the balance in full to avoid a sheriff's sale. She further testified that the family began making payments towards an accrued water bill exceeding \$5,000. According to Anabel Polanco, Ms. Polanco spent at least the first year after purchasing the Property making repairs to it, with recorded expenses of around \$78,000.⁶ She testified that she had no notice of any issues with the title to the Property until August 2022, when Ms. Durante filed this action.

⁶ Ms. Polanco sought reimbursement of \$85,900 from Ms. Durante representing the amount Ms. Polanco spent on repairing the Property and paying the taxes.

During trial, both Mr. Rosario and Ms. Polanco submitted motions for a directed verdict, which the trial court denied. On November 17, 2023, the trial court issued a judgment in favor of Ms. Durante, granting her title to the property and voiding both the deed purporting to transfer the Property from Ms. Durante to Mr. Rivera Sanchez and the subsequent deed purporting to transfer the Property from Mr. Rivera Sanchez to Ms. Polanco. The trial court also awarded \$8,000 to Ms. Polanco for reimbursement of liens paid against the Property and denied Ms. Durante's request to impose a judgment against Ms. Polanco for reasonable rental value.

Mr. Rosario and Ms. Polanco both filed post-trial motions requesting a directed verdict based on their claim that Ms. Durante did not meet the clear and convincing standard of proof required to demonstrate that Mr. Rosario—or anyone else—committed fraud.⁷ Ms. Polanco also requested additional damages, arguing that she was entitled to additional reimbursement for improvements she made to the property.

The trial court denied all post-trial motions, and this appeal followed. Both Appellants and the trial court complied with Pa.R.A.P. 1925.

Appellant Ms. Polanco raises the following two issues on appeal:

⁷ Mr. Rosario and Mr. Polanco also requested a directed verdict based on their assertions that the court lacked jurisdiction because Mr. Rivera Sanchez was a necessary party who Ms. Durante never served and that Ms. Durante's causes of action were procedurally improper as they included ejectment and quiet title claims on the same parcel of real estate, which is impermissible. Appellants have not raised any issues on appeal arising from these claims.

[1.] Did Ms. Durante establish by clear and convincing evidence that the 2019 Deed at issue in this case was a forgery?

[2.] Did the [c]ourt properly weigh the damages awarded to [Ms.] Polanco for improvement of the value of the property?

Ms. Polanco's Brief at 2-3.

Appellant Mr. Rosario raises the following issue on appeal:

Did the [t]rial [c]ourt err in its verdict based upon its own weighing of the evidence?

Mr. Rosario's Brief at 3.

Ms. Polanco and Mr. Rosario both challenge the trial court's decision in favor of Ms. Durante following a non-jury trial. When reviewing a trial court's decision after a nonjury trial, our standard of review is well-established. "We may reverse the trial court only if its findings of fact are predicated on an error of law or are unsupported by competent evidence in the record. As fact finder, the judge has the authority to weigh[] the testimony of each party's witnesses and to decide which are most credible." ***Parker Oil Co. v. Mico Petro and Heating Oil, LLC***, 979 A.2d 854, 856 (Pa. Super. 2009) (citation omitted). The trial judge's findings must be given the same weight and effect as a jury verdict and will not be disturbed on appeal unless they are not supported by competent evidence in the record. ***Levitt v. Patrick***, 976 A.2d 581, 589 (Pa. Super. 2009). "Furthermore, our standard of review demands that we consider the evidence in [the] light most favorable to the verdict winner." ***Id.*** (citation omitted).

In reviewing a judgment entered in a quiet title action, this Court is limited to determining "whether the findings of fact are supported by

competent evidence, whether an error of law has been committed, and whether there has been a manifest abuse of discretion.” **Regions Mortg., Inc. v. Muthler**, 889 A.2d 39, 41 (Pa. 2005) (citation and quotation marks omitted). This Court “will not reverse a determination of the trial court in a quiet title action absent an error of law or capricious disregard of the evidence.” **Birdsboro Mun. Authority v. Reading Co. and Wilmington & Northern R.R.**, 758 A.2d 222, 225 (Pa. Super. 2000) (citations and quotation marks omitted).

A forged or fraudulent “instrument is not binding on any person and is wholly inoperative to transfer any title or right to property whether the holder is an innocent or guilty purchaser.” **Harris v. Harris**, 239 A.2d 783, 784 (Pa. 1968). **See also Stanko v. Males**, 135 A.2d 392, 395 (Pa. 1957) (affirming order that set aside a deed that was forged by owner’s wife); **Reck v. Clapp**, 98 Pa. 581, 585 (Pa. 1881) (reiterating that a forged deed cannot pass title of a property).

“[W]hen the issue of a forgery is raised, the party claiming forgery has the burden of proving the existence of a forgery by clear and convincing evidence.” **De Lage Landen Servs., Inc. v. Urban Partnership, LLC**, 903 A.2d 586, 590 (Pa. Super. 2006) (citation omitted). “The standard of clear and convincing evidence is defined as testimony that is so ‘clear, direct, weighty and convincing as to enable the trier of fact to come to a clear conviction, without hesitation, of the truth of the precise facts in issue.’” **In re R.N.J.**, 985 A.2d 273, 276 (Pa. Super. 2009) (citation omitted). “[F]orgery

presents an issue of fact, [thus,] the resolution of the issue necessarily turns on the court's assessment of the witness['] credibility." ***De Lage Landen Servs., Inc.***, 903 A.2d at 590 (citation omitted).

To the extent that this Court must consider the weight the trial court gave to the evidence when determining the credibility of witnesses, we are mindful of the following:

our scope of review on a weight of the evidence claim is very limited. We will respect the trial court's findings with regard to credibility and weight of the evidence unless it can be shown that the lower court's determination was manifestly erroneous, arbitrary and capricious or flagrantly contrary to the evidence.

Rissi v. Cappella, 918 A.2d 131, 140 (Pa. Super. 2007) (citation omitted).

In her first issue, Ms. Polanco contends that the trial court erred in finding that Ms. Durante's testimony constituted sufficient clear and convincing evidence to prove that someone forged her signature on the 2019 Deed. Ms. Polanco's Brief at 6. Ms. Polanco argues that absent additional evidence buttressing Ms. Durante's claim, such as the testimony of a handwriting expert or Ms. Durante's son regarding his mother's signature, or documents proving that Ms. Durante was not in Pennsylvania at the time of the transaction, the court should not have credited Ms. Durante's testimony that she did not sign the 2019 Deed. ***Id.*** at 5, 11-12. We disagree.

As explained above, whether a signature has been forged presents an issue of fact whose resolution rests on the court's assessment of the witness' credibility. Here, the trial court sitting as the finder of fact, considered Ms.

Durante's testimony, and that of Mr. Rosario, and found Ms. Durante credible. Contrary to Ms. Polanco's assertions, Pennsylvania law does not require Ms. Durante to provide corroborating evidence to support her contention that the signature on the 2019 Deed is not hers or that she was in the Virgin Islands at the time of the transaction.⁸ Thus, following our review of the record we conclude that the trial court's determinations were not manifestly erroneous or arbitrary, or contrary to the evidence or law. Ms. Polanco's claim, thus, fails.⁹

In her second issue, Ms. Polanco claims that the trial court erred in awarding her damages only for the money she spent satisfying a tax lien on the Property and not for the value of the improvements she made to it. Ms. Polanco's Brief at 13-16. Ms. Polanco argues that the court should have awarded her more damages because she was a good-faith purchaser of the Property from Mr. Rivera Sanchez. ***Id.*** at 14. In support of this claim, Ms. Polanco highlights the evidence that the Polancos took part in the real estate closing, paid money to Mr. Sanchez—whose name was on the 2019 Deed—

⁸ Ms. Polanco asserts on numerous occasions that Ermant Durante should have offered testimony regarding the authenticity of his mother's signature on the 2019 Deed. We observe, however, that Ms. Polanco's counsel could have but did not seek to elicit testimony from Mr. Durante on this point.

⁹ For the same reasons, Mr. Rosario's challenge to the weight the trial court gave to the evidence, in which he argues that Ms. Durante failed to prove each of the elements of a negligence claim or that Mr. Rosario acted with the requisite *mens rea*, likewise fails. ***See*** Mr. Rosario's Brief at 5-10

received a key for the front door, made payments for a large, unpaid water bill despite the house having no plumbing, paid an \$8,000 tax lien to prevent the Property from going to sheriff's sale, and spent \$77,900 to repair the Property. ***Id.*** She further asserts that there was no willful blindness on her part from which the court could conclude that she was a purchaser in bad faith because the purchase price for the Property was not inappropriately low based on its poor condition and Mr. Rivera Sanchez had keys to the front door and a deed in his name. ***Id.*** at 15-16. Ms. Polanco argues, to the contrary, that she was an innocent victim defrauded by Mr. Rivera Sanchez. ***Id.*** at 16.

A person is not a bona fide good faith purchaser when she knew of a defect in title or, even if she did not, her ignorance was willful or a result of her own negligence. ***See First Federal Sav. and Loan Ass'n of Lancaster v. Swift***, 321 A.2d 895, 898 (Pa. 1974) (stating that courts "will not relieve a party from the consequences of an error due to [her] own ignorance or carelessness when there were available means which would have enabled [her] to avoid the mistake if reasonable care had been exercised").

Furthermore, "where a bona fide purchaser of property makes improvements and the real owner seeks equitable relief, the court will compel him to pay for the improvements to the extent that they have **enhanced the value** of the land." ***Nebesho v. Brown***, 846 A.2d 721, 729 (Pa. Super. 2004) (internal quotation marks omitted) (where this Court affirmed the lower court's decision not to award reimbursement damages in the absence of credible evidence that improvements increased the value of the property).

Here, the trial court explained that Ms. Polanco was not entitled to the damages she sought because she was not a good faith purchaser of the Property. Trial Ct. Op., 8/30/24, at 15. The court acknowledged Ms. Polanco's testimony that she "never had any suspicion of fraud, notice of title problems, or dishonest intent throughout the entire time she was involved with the property." **Id.** Nevertheless, the court found that because Ms. Polanco neither conducted a title search, nor read or translated the deed, Ms. Polanco failed to exercise reasonable care which, had she done so, would have revealed multiple errors on the face of the deed and defects in the chain of title. **Id.** at 15-16. In addition, because Ms. Polanco did not have a receipt for the \$35,000 cash she allegedly paid for the Property and admitted to "purchasing a house in terrible condition from a man she had met for the first time just days prior, without any inquiry into the seller's reputation or history," the court found that she did not incur the repair expenses for which she seeks reimbursement in good faith. **Id.**

The court also explained that, even if the evidence supported a conclusion that Ms. Polanco purchased the property in good faith, she did not present sufficient evidence to support her damages claim. The court observed that Ms. Polanco, Anabel Polanco, and Ms. Polanco's counsel each cited different values for the repair costs, and that the evidence of expenses presented at trial consisted of a "notebook of handwritten, unsigned, undated, and generic records that [Ms. Polanco] kept for personal use" and did not include photographs of the most significant defects to the house. **Id.** at 16.

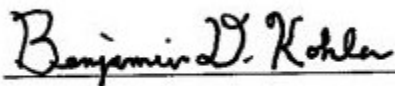
Last, the court noted that the proper measure of damages would be the increase in the market value of the Property after Ms. Polanco's improvements and not reimbursement of expenses as Ms. Polanco contends. Ms. Polanco did not, however, present any evidence of the existence and extent of any increased market value. ***Id.***

We discern no error in the trial court's award of damages to Ms. Polanco. Critically, even if Ms. Polanco were a good faith purchaser of the Property, she would only be entitled to damages to the extent that the improvements she financed increased the value of the Property. Our review of the record confirms that Ms. Polanco did not present any evidence of the increase in the Property's value, if any, attributable to the money she spent repairing it. Accordingly, Ms. Polanco is not entitled to relief on this claim.

In sum, we affirm the trial court's March 19, 2024 orders.

Orders affirmed.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 4/29/2025