

KELLY MITCHELL DAVIS

v.

SQUIRREL ISLAND VILLAGE CORPORATION et al.

Argued September 12, 2024

Decided October 24, 2024

Panel: STANFILL, C.J., and MEAD, HORTON, LAWRENCE, and DOUGLAS, JJ.

## MEMORANDUM OF DECISION

Kelly Mitchell Davis appeals from judgments entered in the Superior Court (Lincoln County, *Billings, J.*) granting Squirrel Island Village Corporation and Squirrel Island Association's joint motion to dismiss Davis's amended complaint for lack of standing and Squirrel Island Historical Society's motion to dismiss Davis's amended complaint for failure to state a claim.<sup>1</sup> The trial court dismissed Davis's amended complaint with prejudice. Davis timely appealed the judgments.

Beginning with the judgment entered in favor of Squirrel Island Historical Society, we conclude that the amended complaint, even when read in the light most favorable to Davis, failed to allege sufficient facts to establish an entitlement to relief or even to provide fair notice to Squirrel Island Historical Society of the claims alleged against it. *See* M.R. Civ. P. 8(a), 12(b)(6); *Pacheco*

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<sup>1</sup> The amended complaint asserted the following claims: equal protection violations (Counts 1-2), due process violations (Counts 3-4), civil rights violations (Counts 5-6), intentional interference with contractual relations (Count 7), harassment (Count 8), illegal eviction (Count 9), confiscation of private property without just compensation (Count 10), punitive damages (Count 11), and declaratory judgment (Count 12).

*v. Libby O'Brien Kingsley & Champion, LLC*, 2022 ME 63, ¶ 6, 288 A.3d 398 (reviewing de novo the grant of a motion to dismiss and viewing the factual allegations in the complaint as if they were admitted and in the light most favorable to the plaintiff); *Garey v. Stanford Mgmt., LLC*, 2024 ME 46, ¶ 7, 319 A.3d 1022 (“Maine uses the notice pleading standard, which requires only that a complaint give fair notice of the cause of action by providing a short and plain statement of the claim showing that the pleader is entitled to relief.” (quotation marks omitted)). The trial court therefore did not err by granting Squirrel Island Historical Society’s motion to dismiss for failure to state a claim, and we affirm the judgment.

With respect to the claims against Squirrel Island Village Corporation and Squirrel Island Association, viewing the factual allegations in the amended complaint as if they were admitted, we conclude that Davis has failed to establish that she presently has a cognizable interest in the property at issue. *See Pacheco*, 2022 ME 63, ¶ 6, 288 A.3d 398 (stating that a court is not bound to accept a complaint’s legal conclusions). Davis therefore does not have standing to bring any claims related to the property. *See Halfway House, Inc. v. City of Portland*, 670 A.2d 1377, 1379 (Me. 1996) (“Standing to sue means that the party, at the commencement of the litigation, has sufficient personal stake in the controversy to obtain judicial resolution of that controversy.”); *see also Clardy v. Jackson*, 2024 ME 61, ¶ 15, --- A.3d --- (stating that to have standing to seek a declaratory judgment a party must show a “concrete and particularized injury that is actual or imminent, not conjectural or hypothetical” (quotation marks omitted)).

In some circumstances, however, a lack of standing may be curable. *See Walsh v. City of Brewer*, 315 A.2d 200, 205-06 (Me. 1974) (stating that “standing” has a “plurality of meanings” and has been “utilized in conjunction with the problem of whether a party is presenting issues which are ‘ripe’ for judicial evaluation”). Davis could potentially establish that she has a cognizable interest in the property. *See* 18-A M.R.S.A. § 3-108(a)(3) (1981)<sup>2</sup> (“No informal probate or appointment proceeding or formal testacy or appointment proceeding . . . may be commenced more than 3 years after the decedent’s death . . . . These limitations do not apply to proceedings to construe probated wills or

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<sup>2</sup> Title 18-A was repealed and replaced by Title 18-C, which took effect on September 1, 2019. *See* P.L. 2017, ch. 402, §§ A-1 to A-2, F-1 (effective July 1, 2019); P.L. 2019, ch. 417, §§ A-103, B-14 (emergency, effective June 20, 2019) (codified at 18-C M.R.S. § 8-301 (2024)).

determine heirs of an intestate.”); *Est. of Reed*, 2016 ME 90, ¶¶ 2-3, 142 A.3d 578 (observing that a proceeding was held to determine heirs and their respective interests in a decedent’s property because regular probate proceedings were time barred); *Est. of Thorne*, 1997 ME 202, ¶¶ 8, 11, 704 A.2d 315 (stating that the Probate Court has exclusive jurisdiction to determine heirs, which may affect who may bring claims against third parties); *cf. Hitch v. Hitch*, 261 A.2d 858, 859 (Me. 1970) (“Judicial sanction [of an agreement that a decedent had no heirs without any judicial proceeding to establish the same] might result in the loss of substantial rights by persons who, even though they be unknown to the parties, may have an interest in the intestate estate of a decedent.”). We therefore vacate the judgment and remand the matter to the trial court for entry of a dismissal without prejudice with respect to Counts 1-7 and Counts 9-12, the claims related to the property. *See Lamson v. Cote*, 2001 ME 109, ¶ 20, 775 A.2d 1134 (holding that a prescriptive easement claim was not ripe for adjudication until the ownership of the disputed land was ascertained).

Finally, with respect to Count 8, the claim for harassment as alleged against Squirrel Island Village Corporation and Squirrel Island Association, we reach a different conclusion because this claim is not inextricably tied to any alleged property interest. We conclude that Davis’s amended complaint fails to state a claim and affirm the dismissal with prejudice as to that count. *See Clardy*, 2024 ME 61, ¶ 27, --- A.3d --- (“[W]e may affirm the trial court’s order for reasons different from those the trial court relied on when we determine, as a matter of law, that there is another valid basis for the judgment.” (quotation marks omitted)).

The entry is:

Judgment granting Squirrel Island Historical Society’s motion to dismiss Davis’s amended complaint is affirmed.

Judgment granting Squirrel Island Village Corporation and Squirrel Island Association’s joint motion to dismiss Davis’s amended complaint is affirmed in part and vacated in part. The judgment as to Court 8 is affirmed. The

judgment as to Counts 1-7 and Counts 9-12 is vacated and remanded to the Superior Court for entry of a dismissal without prejudice.

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