

CHOCKSTONE GROUP, LLC, et al.

v.

ROBERT A. MARTIN et al.

Argued September 10, 2024

Decided October 29, 2024

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

MEMORANDUM OF DECISION

Robert A. Martin and Charlotte M. Fawcett appeal from a judgment of the Superior Court (Somerset County, *Mullen, C.J.*) determining that Chockstone Group, LLC, et al. (Chockstone)¹ acquired a prescriptive easement over a portion of Wildwood Lane in the Town of St. Albans. *See* M.R. App. 2B(c)(1). Martin contends that we should apply a de novo standard of review to the question of whether the elements of acquiescence and adversity are met because this is a legal question, while Chockstone maintains that we should apply a clear error standard of review because this is a question of fact. Martin argues that the fees that the Martin family charged Chockstone for the use of Wildwood Lane defeat the possibility that Chockstone's use of and travel over Wildwood Lane meet the acquiescence and adversity elements of a prescriptive easement. Chockstone argues that we should affirm the court's judgment finding that there was acquiescence and adversity because these findings were based on credible evidence regarding Chockstone's use of Wildwood Lane and

¹ The appellees include Chockstone Group, LLC (a single-member limited liability company of which Jeffrey E. Childs is the sole member), Gregory Childs Hooper, Julie Elizabeth Fusari, Kristina Jayne Hooper Pogwaite, Ned Childs Hooper, Scott D. Thies, Sean M. Thies, and David A. Thies.

the fees paid to the Martins. Martin also contends that the court abused its discretion by excluding a transcript of a deposition from a previous litigation and that the court should have admitted it under the ancient document exception to the rule against hearsay. *See* M.R.E. 803(16).

We review the trial court's factual findings as to the elements of a prescriptive easement for clear error and will affirm those findings if supported by competent record evidence, even if evidence could support alternative factual findings. *Androkites v. White*, 2010 ME 133, ¶ 12, 10 A.3d 677. We will vacate the trial court's conclusion that the party with the burden of proof failed to prove a prescriptive easement only if the evidence compelled a contrary conclusion. *Id.* We conclude that the nature of the payments Chockstone made is a question of fact, and the court's findings of fact are entitled to deference because they are supported by competent evidence in the record. *See id.* There was conflicting evidence at trial regarding whether the acquiescence and adversity elements were met, but the trial court properly determined that these elements were met by assessing the credibility of the witnesses and finding that the payments were for maintenance, which was consistent with a finding that Chockstone asserted dominion over the property and acquired a prescriptive easement. *See Lyons v. Baptist Sch. of Christian Training*, 2002 ME 137, ¶ 31, 804 A.2d 364. *See also S.D. Warren Co. v. Vernon*, 1997 ME 161, ¶ 11, 697 A.2d 1280 (indicating that contrary to the defendant's assertion and based on the facts, the court was not compelled to find that the plaintiff's use of the subject road was permissive).

Finally, we conclude that the trial court did not abuse its discretion in excluding the deposition transcript as it violated M.R.E. 804(b)(1)(A) because Chockstone did not have the opportunity to develop the testimony nor was Chockstone a party in the prior litigation in which the deposition was taken. Further, M.R.E. 804(b)(1)(A) is controlling here rather than M.R.E. 803(16) because a deposition transcript from a prior litigation falls more appropriately under the category of prior testimony than that of an ancient document. *See In re Fin. Oversight & Mgmt. Bd. for Puerto Rico*, 927 F.3d 597, 604 (1st Cir. 2019) (describing the canon of statutory interpretation *generalia specialibus non derogant*, which means that between two rules, courts shall apply the rule that is more specific); *Nitro-Lift Techs., L.L.C. v. Howard*, 568 U.S. 17, 21 (2012) (maintaining "the ancient interpretive principle that the specific governs the

general (*generalia specialibus non derogant*) applies only to conflict between laws of equivalent dignity”).

The entry is:

Judgment affirmed.

Joshua D. Dunlap, Esq. (orally), and Katherine E. Cleary, Esq., Pierce Atwood LLP, Portland, for appellants Robert A. Martin and Charlotte M. Fawcett

Judy A.S. Metcalf, Esq. (orally), Judy Metcalf Law, Brunswick, for appellees Chockstone Group, LLC, et al.

Somerset County Superior Court docket number RE-2020-4
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