

KATHI PLANTE

v.

SUE LEHAY et al.

Argued October 8, 2024
Decided November 7, 2024

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

MEMORANDUM OF DECISION

Sue LeHay appeals from a judgment of the Superior Court (Somerset County, *Stokes, A.R.J.*) entered after a bench trial in favor of Kathi Plante on her complaint seeking an equitable partition of a property owned by her and her three siblings, Scott LeHay, Michael LeHay, and Sue LeHay in co-tenancy.¹ Sue² argues that the court abused its discretion by declining to expressly order that

¹ In addition to the request for equitable partition pursuant to 14 M.R.S. §§ 6051-6054 (2024), Kathi Plante's complaint included a request for statutory partition pursuant to 14 M.R.S. §§ 6501-6525 (2024) as well as claims for unjust enrichment, rent and profits, and contribution. Before trial, and then later during the trial, Kathi confirmed that she was abandoning all counts except the request for equitable partition in Count 1 of the complaint. Along with his answer, Michael LeHay filed cross-claims and counterclaims mirroring the claims set out in the complaint, namely requests for equitable partition and statutory partition of the property as well as claims for unjust enrichment, rents and profits, and contribution. At oral argument, Michael confirmed that he has abandoned all counterclaims and cross-claims except for his request for equitable partition of the property. In addition, the parties have filed a stipulation dismissing all claims other than the equitable partition claims in this matter.

² Because the parties share a common surname, we refer to them by their first names.

she buy out her siblings and instead ordering the property be sold and the net proceeds be equally divided among the parties. Contrary to Sue's argument, the court acted well within the bounds of its discretion. *See Ackerman v. Hojnowski*, 2002 ME 147, ¶ 19, 804 A.2d 412 (holding that in an equitable partition action, the court "is not required to permit one party to buy the interest of the other, and acts within its discretion by refusing to do so even if the party has the financial capacity to pay for the interest." (citation omitted)); *Libby v. Lorrain*, 430 A.2d 37, 38-40 (Me. 1981) (holding that the trial court, acting in equity, did not abuse its discretion by rejecting one party's request to buy out the other and instead ordering jointly-held property be sold and the proceeds divided).

The entry is:

Judgment affirmed.

Walter F. McKee, Esq., and Kurt C. Peterson, Esq. (orally), McKee Morgan, LLC, P.A., Augusta, for appellant Sue LeHay

Daniel J. Bernier, Esq. (orally), Law Office of Daniel J. Bernier, LLC, Waterville, for appellee Kathi Plante

Paul H. Mills, Esq. (orally), Law Office of Mills & Mills, Farmington, for appellee Michael LeHay