

NANCY BROOKS et al.

v.

NONA TREWORGY

Submitted on Briefs September 14, 2000
Decided September 27, 2000

Panel: WATHEN, C.J., and CLIFFORD, RUDMAN, DANA, SAUFLEY,
ALEXANDER, and CALKINS, JJ.

MEMORANDUM OF DECISION

Nancy Brooks, Norris Martin, Norma Fontane, and Natalie Julian appeal from the entry of summary judgment entered in the Superior Court (Penobscot County, *Marsano, J.*) in favor of their sister, Nona Treworgy. Contrary to the appellants' contentions, the court did not err in concluding that the appellants presented no genuine issues of material facts in support of their allegations that (1) Treworgy had been unjustly enriched, *see June Roberts Agency, Inc. v. Venture Properties, Inc.*, 676 A.2d 46, 49 (Me. 1996) (requiring benefit conferred upon defendant, defendant's knowledge, and acceptance of benefit under inequitable circumstance); (2) Treworgy owed them a fiduciary duty, or was required to provide an accounting, *see People's Heritage Sav. Bank v. Recoll Management, Inc.*, 814 F. Supp 159, 171 (D. Me. 1993) (allowing accounting when defendant breaches

contractual or other duty and holds assets due to breach); or (3) Treworgy had converted property belonging to them, *see Bell v. Red Ball Potato Co., Inc.*, 430 A.2d 835, 837 (Me. 1981) (acknowledging superior interest in property by defendant as valid defense). Nor did the court err in concluding that the claims of oral contract and Improvident Transfers of Title, not pled by the appellants but raised in opposition to summary judgment, had no support in the facts set forth in their Rule 7(d) statement.

The entry is:

Judgment affirmed.

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