

WALTER MUSSON AND RICHARD MUSSON,
Personal Representatives of the
ESTATE OF EDWARD MUSSON

v.

OTIS A. GODLEY et al.

Submitted on Briefs November 21, 2000
Decided December 1, 2000

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

MEMORANDUM OF DECISION

Walter Musson and Richard Musson, personal representatives of the Estate of Edward Musson, appeal from a judgment entered in Superior Court (Hancock County, *Mead C.J.*) finding in favor of Otis Godley, Seely Clark, and Philomena Hathaway on the Estate's adverse possession claim, denying the claims for monetary awards, and finding that partition is not an available remedy. Contrary to the Estate's assertions, the court did not err in holding that the Estate failed to produce sufficient evidence to satisfy the elements of adverse possession. *See Mansfield v. McGinnis*, 86 Me. 118, 119, 29 A. 956, 956 (1893); *Hudson v. Coe*, 79 Me. 83, 94-95, 8 A. 249, 252-53 (1887); 14 M.R.S.A. §§ 801, 815 (1980). Nor did the court err in denying the Estate's claim for betterments as there was sufficient evidence to support the court's finding that the amount Musson expended on improvements to the property was offset by the income and other benefits

he received through exclusive occupation of the property. *See Libby v. Lorrain*, 430 A.2d 37, 40 (Me. 1981) (holding that the court's finding that "the equities were evenly balanced between the parties, is amply supported against a 'clearly erroneous' attack"). Finally, based on the record before us and the parties' failure to submit additional evidence to the trial court following this court's remand, *see Musson v. Godley*, 1999 ME 193, ¶ 8, 742 A.2d 479, 481, we cannot conclude that the court erred in rejecting partition as a remedy.

The entry is:

Judgment affirmed.

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