NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

JAMES A. PHILLS	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
KELLY MAILE, ORIN CLYBOURN, GUNNISON LAND, LP, EVAN AND RISA LEVITT	:	No. 1702 EDA 2025
APPEAL OF: KELLY MAILE	:	

Appeal from the Order Entered June 16, 2025
In the Court of Common Pleas of Philadelphia County Civil Division at No(s): 220701617

BEFORE: LAZARUS, P.J., SULLIVAN, J., and STEVENS, P.J.E.*

MEMORANDUM BY STEVENS, P.J.E.: **FILED AUGUST 24, 2026**

Kelly Maile appeals from the June 16, 2025 order denying her motion for post-trial relief in this quiet title action.[1] After careful review, we affirm.

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* Former Justice specially assigned to the Superior Court.

[1] Appellant purports to appeal from the April 30, 2025 order finding, ***inter alia***, that all subsequent deeds – including the August 26, 2015 conveyance of the property to Appellant – were fraudulent and void in effect. Appellant's appeal, however, properly lies from the June 16, 2025 order denying post-trial motions, where judgment in quiet title was entered in favor of Appellee and against Appellant, in a form following Pa.R.Civ.P. 1066(b). In a quiet title action, the judgment of the court entered following disposition of the action after a bench trial is final for purposes of appeal. Pa.R.Civ.P. 1066(b). Pursuant to Pa.R.Civ.P. 1061(a), parties must file post-trial motions in quiet title actions to preserve issues for appellate review. ***See*** Pa.R.Civ.P. 1061(a); ***Kennel v. Thomas***, 804 A.2d 667, 668 (Pa.Super. 2002). "The Rules do not,
(Footnote Continued Next Page)

The trial court summarized the underlying factual history of this case as follows:

> [Appellee's] mother, Gerine Mae Phills, was deeded property located at 1223 South 18th Street Philadelphia, PA 19146 by her parents on May 24, 1950. However, Ms. Phills moved from the Philadelphia area to Novia Scotia when she got married to [Appellee's] father in 1949. In 2017, Ms. Phills passed away. [Appellee] was Ms. Phills' sole beneficiary as his sister, Wendi Anne Phills, passed away in 2004. After Ms. Phills' passing, [Appellee] was notified by an attorney [representing the Philadelphia Community Development Coalition ("PCDC")] that there had been a number of fraudulent deed conveyances from the property located at 1223 South 18th Street. It was [Appellee's] understanding that the [PCDC's] work is to restore ownership of properties from fraudulent conveyances; however, once [Appellee] read the petition filed by the [PCDC], it appeared to him that the [PCDC] wanted to restore ownership for themselves. Thus, the [PCDC's] matter was withdrawn and [Appellee] filed this matter's complaint to quiet title.
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> A fraudulent deed allegedly was conveyed by his mother, which she never signed, to a fictitious person holding themselves out as her daughter, Ellen Phills, on June 3, 1993 and recorded on August 20, 2008. Further, the deed between Ms. Phills and Ellen Phills, had [Appellee's] mother's name incorrectly spelled, and the signature on the document was not hers. Further, [Appellee's] handwriting expert, Michelle Dresbold, testified that "within a reasonable degree of professional certainty the name on the Deed Gerine Phills was not authored by Gerine Phills." Similarly, though the deed purported a transfer from mother,

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however, require the court to re-enter judgment following disposition of the post-trial motions[,]" where the appealable order is entered in accordance with Rule 1066(b). ***See Durante v. Polanco***, 339 A.3d 451 (Pa.Super. 2025) (unpublished memo at *6).

> Gerine Mae Phills, to daughter, Ellen Phills, [Appellee] does not have a sister with the name "Ellen Phills." His only sister, Wendi Anne Phills, passed away in 2004. Additionally, the address associated with Ms. Phills on that document, 2311 Firth Street, Philadelphia, PA, was not an address Ms. Phills has resided at, and she was living in Sarasota, Florida on the date of the document. Furthermore, [Appellee's] investigator, Diane Cowan, found no record of Ellen Phills and/or Gerine Mae Phills ever having lived at that address.
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> However, Ms. Cowan found a person by the name of Henry Seward who owns property at 2311 Firth Street, Philadelphia, PA who was conveyed that said property by a Lemuel Nottage in 2013. Moreover, when Ms. Cowan asked Henry Seward if he knew anyone of the name of "Ellen Phills" or "Gerine Phills" he responded in the negative. Additionally, Ms. Cowan found that there were prior deed transactions between Lemuel Nottage, who conveyed the property to Henry Seward, and Orin Clybourn that stated the transaction was between a father and son. Thus, Ms. Cowan surmised that Orin Clybourn is the son of Lemuel Nottage. Additionally, there are newspaper articles that indicate that Orin Clybourn has been involved with "Deed theft over a number of years."
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> After the deed conveyance between Ms. Phills and Ellen Phills, on October 22, 2008, the 1223 South 18th Street property was then transferred by fraudulent conveyance by Ellen Phills to Orin Clybourn. When asked whether [Appellee] knew of a "Orin Clybourn," [Appellee] answered in the negative. On March 17, 2010, Mr. Clybourn conveyed a deed of said property to Gunnison LP, and the deed was recorded on March 19, 2010. When asked to [Appellee's] knowledge did his mother authorize any of those three transactions, he answered in the negative. Then on July 30, 2010, Gunnison LP executed a deed conveying the property to [Evan and Lisa Levitt (hereinafter, "the Levitts"),] which was recorded on August 3, 2010. The last transfer of the property was between the Levitts to [Appellant in 2015]. When asked what [Appellee] was asking of the court, [Appellee] responded that he is

> asking the Court to correct the fraudulent conveyances created by Orin Clybourn and restore the property to his mother's estate.

Trial court opinion, 10/31/25 at 3-5 (citations omitted).

On July 19, 2022, Appellee filed an action to quiet title in the property in Court of Common Pleas of Philadelphia County – Civil Division. On September 30, 2024, the parties proceeded to a bench trial on this matter before the Honorable Vincent L. Johnson. Following a one-day trial, the trial court entered an order on April 30, 2025 in favor of Appellee and against Appellant. The trial court found that the deed purportedly signed by Gerine Mae Phills on June 3, 1993 was fraudulent and void in effect. The trial court further found that all subsequent deeds were fraudulent and void in effect, including the August 26, 2015 conveyance to Appellant. The trial court directed the Recorder of Deeds to prepare a new deed restoring the property back to Gerine Mae Phills. ***See*** trial court order, 4/30/25 at ¶ 1. Appellant filed a timely post-trial motion on May 12, 2025. The trial court subsequently denied Appellant's post-trial motion on June 16, 2025. This timely appeal followed.[2]

Appellant raises the following issues for our review:

> 1. Whether the trial court erred in not analyzing the lengthy period of time it took for [Appellee] to file suit on July 19, 2022[?]

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[2] Appellant and the trial court have complied with Pa.R.A.P. 1925.

2. Whether the trial court failed or declined to consider the passage of 67 years between the time decedent Gerine Phills took title to 1223 South 18th Street in Philadelphia in 1950 until her date of death on July 16, 2017 (as to laches)[?]

3. Whether the trial court failed or declined to consider the lengthy passage of time between 1950 and 1993 when the fraudulent deed was executed (as to laches)[?]

4. Whether the trial court failed or declined to consider the absence of any testimony regarding decedent's complete abandonment of the property and failure to exercise any vigilance with respect to the property (as to prejudice)[?]

5. Whether the trial court failed or declined to consider the death of Gerine Phills in 2017 (as to prejudice)[?]

6. Whether the trial court failed or declined to consider the purchase price of the property of $384,000.00[?]

7. Whether the trial court failed or declined to consider that a new house was built on the property in 2010 and sold to the Levitts in 2010[?]

Appellant's brief at 4-5.

Our standard of review of a trial court's decision following a bench trial is well settled:

> Our appellate role in cases arising from non-jury trial verdicts is to determine whether the findings of the trial court are supported by competent evidence and whether the trial court committed error in any application of the law. The findings of fact of the trial judge must be given the same weight and effect on

> appeal as the verdict of a jury. We consider the evidence in a light most favorable to the verdict winner. We will reverse the trial court only if its findings of fact are not supported by competent evidence in the record or if its findings are premised on an error of law. However, [where] the issue ... concerns a question of law, our scope of review is plenary.

Stephan v. Waldron Electric Heating & Cooling LLC, 100 A.3d 660, 664 (Pa.Super. 2014) (citation omitted; brackets in original).

> In reviewing a judgment entered in a quiet title action, this Court is limited to determining whether the findings of fact are supported by competent evidence, whether an error of law has been committed, and whether there has been a manifest abuse of discretion. This Court will not reverse a determination of the trial court in a quiet title action absent an error of law or capricious disregard of the evidence.

Imbrenda v. Imbrenda, 350 A.3d 1061, 1070 (Pa.Super. 2026) (citations and internal quotation marks omitted).

Although Appellant sets forth an abundance of claims in her "Statement of Questions Presented," ***see*** Appellant's brief at 4-5, the crux of her argument on appeal – and the only issue she briefs in the "Argument" section of her appellate brief – concerns whether "the trial court erred when it failed to apply the equitable doctrine of laches to this case." ***See id.*** at 12, 14.

"The doctrine of laches is an affirmative defense that bars the prosecution of stale claims and is the practical application of the maxim that those who sleep on their rights must awaken to the consequence that they have disappeared." ***Wykel v. Knapp***, 288 A.3d 889, 897 (Pa.Super. 2022)

(citations and internal quotation marks omitted), ***appeal denied***, 303 A.3d 1052 (Pa. 2023). "[I]n order to prevail on an assertion of laches, respondents must establish: a) a delay arising from petitioner's failure to exercise due diligence; and b) prejudice to the respondents resulting from the delay." ***A.M.M. v. Pennsylvania State Police***, 194 A.3d 1114, 1118 (Pa.Super. 2018) (citation omitted), ***appeal denied***, 207 A.3d 285 (Pa. 2019). Thus, "[l]aches bars relief when the complaining party is guilty of want of due diligence in failing to promptly institute the action to the prejudice of another." ***Fulton v. Fulton***, 106 A.3d 127, 131 (Pa.Super. 2014) (citation omitted).

We further recognize that "[t]he question of whether laches applies is a question of law; thus, we are not bound by the trial court's decision on the issue. The question of laches itself, however, is factual, and is determined by examining the circumstances of each case." ***Morgan v. Millstone Resources Ltd.***, 267 A.3d 1235, 1245 (Pa.Super. 2021) (citation omitted).

Instantly, our review of the record establishes that the trial court did not err in concluding that the equitable doctrine of laches was inapplicable to this matter. On the contrary, the facts of this case simply do not warrant the relief requested by Appellant, as she has failed to satisfy the first prong of the aforementioned test. Namely, that Appellee did not exercise due diligence in pursuing his quiet title claim against Appellant once becoming aware of the fraudulent deeds. ***See A.M.M.***, 194 A.3d at 1118. As the trial court recognized in its opinion,

> [Appellee's] mother, Gerine Mae Phills, was deeded property located at 1223 South 18th Street by her parents on May 24, 1950. However, [Appellee's] mother moved from the Philadelphia area to Novia Scotia when she got married to [Appellee's] father in 1949. In 2017, Ms. Phills passed away. [Appellee] was his mother's sole beneficiary because [Appellee's] sister, Wendi Anne Phills, passed away in 2004. After [Appellee's] mother['s] passing, [Appellee] was notified by an attorney that there had been a number of fraudulent deed conveyances from the property located at 1223 South 18th Street. Moreover, the fraudulent deed conveyed by his mother, which she never signed, to a fictitious person holding themselves out as [Appellee's] mother's daughter, Ellen Phills, on June 3, 1993, was recorded on August 20, 2008. Further, the deed between Gerine Mae Phills and Ellen Phills, had [Appellee's] mother's name incorrectly spelled and the signature on the document was not hers. Also, [Appellee's] handwriting expert, Michelle Dresbold, testified that "within a reasonable degree of professional certainty the name on the Deed Gerine Phills was not authored by Gerine Phills." Additionally, the address associated with Ms. Phills on that document, 2311 Firth Street, Philadelphia, PA, was not an address associated with [Appellee's] mother, and she was living in Sarasota, Florida at the date of the document. Additionally, though the deed purported a transfer from mother, Gerine Mae Phills, to daughter, Ellen Phills, [Appellee] did not have a sister with the name "Ellen Phills" and his sister, Wendi Anne Phills, passed away in 2004. Furthermore, [Appellee's] investigator, Diane Cowan, found no record of an Ellen Phills and Gerine Mae Phills ever having lived at that address. Therefore, all of [Appellant's] arguments concerning laches fail because [Appellant's] Counsel provided no evidence to rebut any of the evidence brought forth by [Appellee] nor bolster his own claim of laches.
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> . . . .

> It is clear, as soon as [Appellant] was notified of the conveyance, he took steps to rectify the fraudulent deeds on the property belonging to his mother.

Trial court opinion, 10/31/25 at 9-11.

We agree. "In determining whether a party exercised due diligence, the focus is on what the party **reasonably should have known by the use of the means of information within his reach,** with the vigilance the law requires, not on what he actually knew." ***Fulton***, 106 A.3d at 134 (citations and internal quotation marks omitted; emphasis added).

Moreover, we likewise agree with the trial court that Appellant failed to demonstrate prejudice on account of the $384,000.00 mortgage she testified that she had acquired on the property, as neither Appellant nor her counsel provided any concrete evidence of said mortgage at trial. ***See*** notes of testimony, 9/30/24, at 138, 148-149.

Based on the foregoing, we discern no error on the part of the trial court in concluding Appellant cannot prevail under the equitable doctrine of laches. Accordingly, we affirm the trial court's June 16, 2025 order denying Appellant's motion for post-trial relief and entering judgment in quiet title in favor of Appellee and against Appellant.

Order affirmed.

P.J. Lazarus joins.

Judge Sullivan concurs in the result.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

Date: 8/24/2026