NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

RAYMOND N. DONIS	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
ALMA M. HEVNER, DECEASED, HER HEIRS, SUCCESSORS, AND ASSIGNS INCLUDING DAVID SULLIVAN, DECEASED, HIS HEIRS, SUCCESSORS AND ASSIGNS, AND GLENN SULLIVAN	:	No. 710 WDA 2025
APPEAL OF: GLENN SULLIVAN	:	

Appeal from the Order Entered May 13, 2025
In the Court of Common Pleas of Cameron County Civil Division at No(s): 2015-1398

BEFORE: LAZARUS, P.J., BOWES, J., and LANE, J.

MEMORANDUM BY BOWES, J.: **FILED: OCTOBER 22, 2026**

Glenn Sullivan appeals from the order awarding Raymond N. Donis exclusive, fee simple title to approximately four acres of land located along Mason Hill Road in Gibson Township (hereinafter "Property").[1] After review of the record, we determine that the trial court lacked subject matter jurisdiction, its order is a legal nullity, and we quash the appeal therefrom.

Due to our disposition, a brief history will suffice. On July 29, 2015, Raymond filed a complaint to quiet title based on adverse possession against David Sullivan, Glenn's uncle. In the lawsuit, Raymond averred that he and

[1] To avoid confusion, we will refer to the parties by first name.

his predecessors have used, improved, maintained, and paid taxes on the Property for eighty-two years. He presented the Property's chain of title as first belonging to Alma Hevner. In 1933, Raymond's father, Nicholas J. Donis, purchased the Property from Alma by unrecorded deed. Nicholas orally gifted the Property in 1992 to his wife, Sara C. Donis, and upon her death in 2015, Raymond, as executor of her estate, deeded the Property to himself. Alma, however, appears to be the last individual with a deed recorded in the Office of the Cameron County Recorder of Deeds. Although the complaint fails to mention David in the chain of title, the record confirms that Alma was David's great-grandmother.

When no response to the complaint was filed, on November 12, 2015, Raymond submitted a motion for default judgment against David. The court granted the motion on December 2, 2015, although it additionally ordered that David could file an action in ejectment within thirty days.[2] On January 4, 2016, Glenn filed a petition to intervene explaining that he was David's nephew and the great-great-grandson of Alma, and although the complaint was served at David's last known address, David had died in 1980. Glenn's octogenarian mother, who still resided at the home, mistakenly accepted service on David's behalf. After a hearing, the court granted Glenn's petition

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[2] The court's order failed to adhere to 42 Pa.C.S. § 5527.1(d), which provides a defendant one year to file an action in ejectment in response to a complaint seeking to quiet title through adverse possession.

to intervene and allowed Raymond to amend his complaint to name Alma, her heirs, successors, and assigns, including David and Glenn, as defendants. A second amended complaint was filed thereafter to include an exhibit with a description of the Property. There was no further action until 2023 when Raymond filed a statement of intent to proceed, and a motion for a pretrial conference.

At the ensuing bench trial, Raymond testified that in 1953, when he was six years old, all four acres of the Property were open pasture, and over the years he and his father used and made improvements to the land, including building a hunting cabin and planting several non-native trees. By the time of trial, two of the four acres had become forested, but the remainder continued to exist as open fields. Glenn testified to his use of the Property, which included hunting, and presented three other witnesses in support.

At the conclusion of the trial, the court took the matter under advisement and on January 13, 2025, issued findings of fact, conclusions of law, and an order entering judgment in favor of Raymond and awarding him exclusive title to the Property in fee simple. In part, the court relied upon the failure of David, who was then thirty-five years deceased, to comply with the December 2, 2015 order directing him to file an action in ejectment within thirty days, which was left unanswered. ***See*** Order, 1/13/25, at 7 ("Preliminarily, the court acknowledges that the order . . . filed of record December 2, 2015[,] granting default judgment in favor of [Raymond],

against [David], for the [Property] that [Raymond] seeks to quiet title to presents an issue given that no defendant[,] including [Glenn,] . . . at any time file[d] an action in ejectment, consequently, the order . . . remains in full force and effect as of this date." (cleaned up)).[3] The court neglected to explain how it could have entered default judgment against the deceased, how that default judgment could remain in full force and effect, or how the decedent could have possibly complied with the directive to file an action in ejectment within thirty days.

Glenn filed unsuccessful post-trial motions, and this timely appeal followed. He submitted a court-ordered statement of errors in compliance with Pa.R.A.P. 1925(b). In lieu of a responsive Rule 1925(a) opinion, the court directed us to its previous findings of fact, conclusions of law, and order granting title of the Property to Raymond. On appeal, Glenn presents eleven issues for our consideration, all of which pertain to whether the trial court erred or abused its discretion in concluding that Raymond established each element of adverse possession. ***See*** Glenn's brief at 9-18.

Our review of the record, however, compels us to first examine the propriety of the trial court's jurisdiction in this case. Subject matter jurisdiction "is a question that is not waivable and may be raised by a court

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[3] The court entered a subsequent order on January 22, 2025, to correct a patent mistake in the date of the previous order from January 13, 2028, to January 13, 2025.

on its own motion." ***In re Avery***, ___ A.3d ___, 2026 WL 1732098, at *9 (Pa.Super. June 16, 2026).

Relevantly, "the death of a party divests a court of subject matter jurisdiction over claims brought by or against the deceased party." ***Grimm v. Grimm***, 149 A.3d 77, 85 (Pa.Super. 2016) (*overruled in part on other grounds by* ***Marion v. Bryn Mawr Trust Company***, 288 A.3d 76 (Pa. 2023)). Our High Court has conceded that "the Court's precedent has taken a hard line relative to proceedings errantly initiated against deceased persons." ***Morrison Informatics, Inc. v. Members 1st Fed. Credit Union***, 139 A.3d 1241, 1247 (Pa. 2016) (cleaned up). Pertinently, the Court has held that:

> It is fundamental that an action at law requires a person or entity which has the right to bring the action, and a person or entity against which the action can be maintained. By its very terms, an action at law implies the existence of legal parties; they may be natural or artificial persons, but they must be entities which the law recognizes as competent. A dead man cannot be a party to an action . . ., and any such attempted proceeding is completely void and of no effect. This disposes of the further argument that the defect was cured by the amendment. There can be no amendment where there is nothing to amend.

Thompson v. Peck, 181 A. 597, 598 (Pa. 1935) (cleaned up).

This Court has steadfastly adhered to ***Thompson***. For example, in ***McClean v. Djerassi***, 84 A.3d 1067 (Pa.Super. 2013), the plaintiff unknowingly filed a complaint against a deceased person, and upon learning that he was dead, attempted to cure the defect by filing a motion to substitute the defendant's estate as the defendant. The co-executors of the defendant's

estate also filed a motion to intervene. The plaintiff's motion to amend was denied, and the trial court dismissed the complaint with prejudice, explaining:

> that [the] original complaint was void because the sole defendant was a dead person, the defective complaint could not be cured by amendment, the correct procedure . . . was to file a new complaint—which [the plaintiff] did not do, and nevertheless [his] motion for leave to amend [the] complaint was filed after the statute of limitations had run.

Id. at 1069.

This Court affirmed. Relying upon ***Thompson***, which we noted "has been consistently followed," we explained that the plaintiff's complaint filed against the deceased defendant "was void and of no effect." ***Id***. at 1071 (cleaned up). Despite the plaintiff's insistence that he was entitled to amend his complaint and substitute the estate, we observed that "***Thompson*** clearly states a complaint against a deceased defendant cannot be cured by amendment." ***Id***. The plaintiff's only recourse, therefore, was to file a new complaint against the estate, notwithstanding that the statute of limitations had run on his tort claim.[4] ***Id***. This logic reflects the principle that "a deceased person does not exist, and an action at law requires a person or entity which

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[4] Although the statute of limitations is relevant to a party's ability to file a new proceeding against the correct party, as we address in the body of this memorandum, it has no bearing on the controlling principles that govern here: an action cannot proceed against a dead person, any attempt to do so is void *ab initio*, and such a defect cannot be cured by amendment. While Raymond retains the ability to bring this adverse possession action against the correct parties, the trial court's attempt to circumvent that obstacle by amending the complaint is ineffectual, not because the statute of limitations forecloses it, but because one cannot fix a nullity.

has the right to bring suit and another entity or person to be sued." ***Anderson Equip. Co. v. Huchber***, 690 A.2d 1239, 1242 (Pa.Super. 1997).

Here, Raymond brought suit only against Glenn's uncle, David, who was deceased when the complaint was filed. Since David, the only named defendant, was deceased, this case was "completely void and of no effect." ***Thompson***, 181 A. at 598. Glenn's petition to intervene failed to cure this error because there was no valid pending action into which anyone could have intervened. The High Court recognized this precise principle in ***Thompson***, highlighting, "[t]here can be no amendment where there is nothing to amend." ***Id***. Rather, since Raymond had commenced an action against a decedent, "the only recourse is to file a new action naming the decedent's personal representative as the defendant." ***Lange v. Burd***, 800 A.2d 336, 341 (Pa.Super. 2002).

In awarding relief to Raymond, the court partially relied upon its December 2, 2015 order granting default judgment against a decedent and directing that decedent file an action in ejectment within thirty days. Despite this matter being an *in rem* proceeding, the trial court must also possess subject matter jurisdiction.[5] The trial court was therefore without jurisdiction

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[5] Recently, this Court explained that "[j]urisdiction is divided into four overarching categories: subject-matter jurisdiction, *in personam* jurisdiction, *in rem* jurisdiction, and *quasi in rem* jurisdiction." ***In re Avery***, ___ A.3d ___, 2026 WL 1732098, at *9. Subject matter jurisdiction "inquires into the competency of the court to determine controversies of the general class to
(Footnote Continued Next Page)

to enter both the order granting default judgment against David and the subsequent order granting title of the Property to Raymond. Plainly, this case, which was initiated in 2015, was void *ab initio*. ***See Bisher v. Lehigh Valley Health Network, Inc.***, 265 A.3d 383, 400–01 (Pa. 2021) ("The phrase 'ab initio' means 'from the beginning' and thus implies that the courts lack subject-matter jurisdiction, based on the idea such pleadings are void and the trial court had no authority to act.").

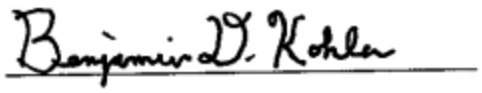
We therefore quash Glenn's appeal. ***See Commonwealth v. Green***, 291 A.3d 317 (Pa. 2023) (affirming Superior Court decision, which quashed an appeal as a legal nullity because it arose from an order that the trial court lacked jurisdiction to impose); ***Interest of N.B.***, 260 A.3d 236, 241 n.8 (Pa.Super. 2021) ("An appeal is 'quashed' when the court lacks jurisdiction over the appeal in the first instance." (cleaned up)).

Appeal quashed. Jurisdiction relinquished.

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which the case presented for consideration belongs" and is unwaivable. ***Id***. (cleaned up). *In rem* jurisdiction "is generally defined as a court's power to adjudicate the rights to a given piece of property, including the power to seize and hold it[.]" ***Id***. at *10 (cleaned up). Quiet title actions are considered examples of *in rem* proceedings, in which the court's exercise of jurisdiction exists only if the subject property is located within the Commonwealth. ***Id***. at *11. After an examination of relevant case law, we concluded that *in rem* jurisdiction is not waivable, however, it remains distinct from subject matter jurisdiction. ***Id***. at *17, n.14.

Judgment Entered.



Benjamin D. Kohler, Esq.
Prothonotary

DATE: 10/22/2026