

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION — LAW

LANCASTER COUNTY AGRICULTURAL
PRESERVE BOARD
Plaintiff

vs.

DORIS F. FRYBERGER, BENJAMIN
FLAHART, and QUARRYVILLE
RESORTS, LP
Defendants

CI-18-09307

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LANCASTER, PENNSYLVANIA

OPINION

BY: WRIGHT, J.

November, 9, 2020

This Opinion is written pursuant to Rule 1925(a) of the Pennsylvania Rules of Appellate Procedure. Appellants Doris F. Fryberger, Benjamin Flahart, and Quarryville Resorts (collectively "Appellants") appeal from this Court's June 25, 2020, Orders granting summary judgment in favor of Lancaster County Agricultural Preserve Board (hereinafter "Preserve Board"), denying Appellants' Motion for the same, and dismissing Appellants' Counterclaim. In Appellants' timely-filed Statement of Matters Complained of On Appeal, Appellants' argue that this Court erred in entering both Orders. Upon review of the Statement and of the record, I maintain that my Orders were proper and submit this Opinion in support.

BACKGROUND

This case turns on the conflicting terms of two easements that burden a 120-acre farm in Quarryville, Pennsylvania. The material undisputed facts are as follows.

The Conservation Easement

In 2003, the Preserve Board and Alice H. Carter, then-owner of a farm located at 10 Locust Lane, Quarryville, Pennsylvania, (hereinafter "Preserved Farm") executed an Agricultural Conservation Easement (hereinafter "Conservation Easement") burdening the Preserved Farm. (Compl., Oct. 25, 2018, Ex. C). The Conservation Easement was created under the Agricultural Area Security Law¹ and, consequently, places distinct parameters upon the ways in which the Preserved Farm may be used. (*Id.*) The Conservation Easement outlines, in relevant part, the following "Permitted Acts":

During the term of the . . . conservation easement conveyed herein, the subject land shall be used ***solely*** for the production for commercial purposes of crops, livestock and livestock products, including the processing or retail marketing of such crops, livestock or livestock products if more than fifty percent of such processed or merchandised products are produced on the subject land (hereinafter "***agricultural production***") Except as permitted in this Deed, neither Grantor nor his agents, heirs, executors, administrators, successors and assigns, nor any person, partnership, corporation or other entity claiming title under or through Grantor, or their agents, shall **suffer, permit, or perform any activity on the subject land other than agricultural production.**

¹ Pennsylvania's Agricultural Area Security Law ("AASL") explains that because "[m]any of the agricultural lands in the Commonwealth are in jeopardy of being lost for agricultural purposes," it is "the purpose of [the AASL] to provide means by which agricultural land may be protected and enhanced as a viable segment of the Commonwealth's economy and as an economic and environmental resource of major importance." 3 P.S. § 902. The AASL thus seeks, *inter alia*, to "[e]ncourage landowners to make a long-term commitment to agriculture by offering them financial incentives and security of land use" and to "[p]rotect farming operations in agricultural security areas from incompatible nonfarm land uses that may render farming impracticable." *Id.* §§ 902(1), (2).

(Id. at Article 1) (emphasis added). The Conservation Easement also allows the Preserved Farm's owner or operator to engage in "customary part-time or off-season minor or rural enterprises and activities which are provided for in the County Agricultural Easement Purchase Program." (Id. at Article 6).

Appellant Doris Fryberger bought the Preserved Farm in November, 2014. (Compl., Oct. 25, 2018, ¶ 7; Answer, Jan. 7, 2019, ¶ 7). Presently, Ms. Fryberger's son and co-Defendant, Benjamin Flahart, is the primary operator of and decision-maker for the Preserved Farm. (Defs.' Br. in Supp. of Mot. for Summary Judgment, Nov. 21, 2019, at 2; Pl.'s Br. in Supp. of Mot. for Summary Judgment, Dec. 23, 2019, Ex. C, at 9). All parties agree that the Preserved Farm was subject to the Conservation Easement when Ms. Fryberger took ownership and remains subject to the Conservation Easement today. (Compl., Oct. 25, 2018, ¶ 8; Answer, Jan. 7, 2019, ¶ 8).

The Sewage Easement

On December 28, 2016, Ms. Fryberger and Defendant Quarryville Resorts executed an easement (hereinafter "Sewage Easement") also burdening the Preserved Farm. (Compl., Oct. 25, 2018, Ex. E). Quarryville Resorts is a Pennsylvania Limited Partnership that owns and operates a commercial campground known as Jellystone Park. (Compl., Oct. 25, 2018, ¶¶ 15-17; Answer, Jan. 7, 2019, ¶¶ 15-17). Located immediately adjacent to the northernmost part of the Preserved Farm, Jellystone Park is a 63-acre establishment that features water- and sewer-enabled campsites and cabins. (Id.; Defs.' Br. in Supp. of Mot. for Summary Judgment, Nov. 21, 2019, at 3). The following events preceded Ms. Fryberger and Quarryville Resorts' execution of the Sewage Easement.

To meet Jellystone Park's growing need for sewage disposal capacity, Quarryville Resorts planned to construct a new sewage disposal facility on the Jellystone Park property that would, necessarily, generate treated human sewage wastewater ("Effluent") as a byproduct. (Pl.'s Br. in Supp. of Mot. for Summary Judgment, Dec. 23, 2019, at 6, Defs.' Br. in Supp. of Mot. for Summary Judgment, Nov. 21, 2019, at 3). Representatives from Quarryville Resorts contacted Mr. Flahart to discuss the possibility of entering into an agreement through which Quarryville Resorts could dispose of Effluent by installing irrigation equipment and monitoring wells on the Preserved Farm. (Pl.'s Reply Br. in Supp. of Mot. for Summary Judgment, Jan. 30, 2020, Zachary Bossenbroek Dep. at 44, Benjamin Flahart Dep. at 26–27; Pl.'s Br. in Supp. of Mot. for Summary Judgment, Dec. 23, 2019, at 7; Defs.' Br. in Supp. of Mot. for Summary Judgment, Nov. 21, 2019, at 4).

Mr. Flahart advised his mother, Ms. Fryberger, about the opportunity and the agreement was commemorated in a "Sewage Easement" (Pl.'s Reply Br. in Supp. of Mot. for Summary Judgment, Jan. 30, 2020, Benjamin Flahart Dep. at 26–27, Compl., Oct. 25, 2018, Ex. E). The relevant terms of the Sewage Easement are as follows:

[Quarryville Resorts] operates a campground business on [its] Property, which will contain its own waste water treatment facility generating human sewage effluent . . . and . . . [Ms. Fryberger and Quarryville Resorts] . . . agree that [Quarryville Resorts] shall have the right to discharge the Effluent onto a portion of the lands of [Ms. Fryberger].

(Compl., Oct. 25, 2018, Ex. E, at 1). The Sewage Easement goes on to state:

[Quarryville Resorts] has requested and [Ms. Fryberger] has agreed to grant an easement on and through a portion of the Fryberger Property to enable [Quarryville Resorts] . . . to construct, install, and maintain facilities to discharge the Effluent, limited to the installation of three or fewer center pivots and piping to the center pivots as further described herein, and up to four (4) monitoring wells in the Easement Area . . . and also to allow

[Quarryville Resorts] to grow pumpkins and other crops on a portion of the Fryberger Property.

* * *

[Ms. Fryberger] . . . grants and conveys to [Quarryville Resorts] . . . [an] easement . . . to access, construct, install, maintain, inspect, operate, repair, remove and replace . . . the Facilities . . . at any time [Ms. Fryberger] shall further permit [Quarryville Resorts] to discharge the Effluent on the Easement Area provided that such discharge of Effluent . . . is in compliance with the limitations set forth in the Conservation Plan or Nutrient Management Plan, which will be provided by [Ms. Fryberger] to [Quarryville Resorts], that is in place for the farming operations at [Ms. Fryberger's] property. [Ms. Fryberger] agrees that [Quarryville Resorts]' Effluent discharge (including DEP-permitted levels of nitrogen, phosphorous, etc.) shall have priority over any material [Ms. Fryberger] puts in the soil; [Ms. Fryberger] shall only put such material on the soil that does not violate the limitations set forth in the Conservation Plan or Nutrient Management Plan that is in place . . . after accounting for [Quarryville Resort's] Effluent discharge.

* * *

[Ms. Fryberger] further grants [Quarryville Resorts] the exclusive right to grow crops for its own use and conduct additional ancillary activities on the 300 foot . . . by 600 foot . . . area at the northeast corner of the Easement Area (the "[Quarryville Resorts] Exclusive Use Area") [Ms. Fryberger] shall further permit [Quarryville Resorts] to access and sample [Quarryville Resorts]' monitoring wells located in the Easement Area during the term of this Agreement. The scope of [Quarryville Resorts]' sampling of these wells shall be limited to only: (i) establishing the background water quality, (ii) evaluating the potential mounding of groundwater under the spray system and (iii) monitoring nitrate levels and other DEP-required monitoring. [Quarryville Resorts] shall not share these sampling results with [Ms. Fryberger] unless [Ms. Fryberger] requests a copy of the sample results in writing

(id. at 1–2). Regarding maintenance and operation, the Sewage Easement provides:

[Quarryville Resorts] shall be the owner of the Facilities at all times. . . . All Effluent discharged in the Easement Area shall be fully treated, and [Quarryville Resorts] certifies that the Effluent shall comply with all state and federal environmental laws and regulations. [Quarryville Resorts] may discharge as much Effluent as permitted by state and federal environmental laws and regulations and consistent with the specific Permits and Approvals allowing [Quarryville Resorts] to discharge the Effluent onto the Easement

Area in compliance with [Ms. Fryberger's] Conservation Plan and Nutrient Management Plan.

(Id. at 5). Finally, the Sewage Easement establishes that Quarryville Resorts will pay an annual fee of \$12,800.00, increased by two percent each year, to Ms. Fryberger. (Id. at 7).

After executing the Sewage Easement, Quarryville Resorts sought permission from East Drumore Township to construct the associated disposal facilities. (Compl., Oct. 25, 2018, ¶ 25; Answer, Jan. 7, 2019, ¶ 25). East Drumore Township wrote a letter to the Preserve Board on December 29, 2017, seeking guidance on whether the proposed sewage disposal facilities were permitted on the Preserved Farm considering the land use limitations set forth in the Conservation Easement. (Compl., Oct. 25, 2018, ¶¶ 27–28, Ex. F). On January 23, 2018, the Preserve Board notified Ms. Fryberger and Quarryville Resorts that the sewage disposal facilities were “not permitted under the terms of the Agricultural Conservation Easement.” (Id. ¶ 27, Ex. G).

Plans for the sewage disposal facilities continued to develop, however, and the Department of Environmental Protection (“DEP”) issued its tentative approval of the facilities on July 13, 2018. (Compl., Oct. 25, 2018, ¶ 30, Ex. H; Answer, Jan. 7, 2019, ¶ 30). Plaintiff appealed DEP’s approval, which is currently stayed before the Pennsylvania Environmental Hearing Board pending the resolution of this action. (Compl., Oct. 25, 2018, ¶ 31; Answer, Jan. 7, 2019, ¶ 31)

In response to its knowledge of the Sewage Easement and in compliance with its requirement to visit preserved properties biannually, the Preserve Board performed an inspection of the Preserved Farm on October 10, 2018. (Pl.’s Br. in Supp. Mot. for Summary Judgment, Dec. 23, 2019, Ex. F, at 5–6). The Preserve Board’s inspector

found numerous RVs parked on the Preserved Farm and a corn maze with props and decorations in the area subject to the Sewage Easement. (*Id.*, at 5).

PROCEDURAL HISTORY

Based on its knowledge of the Sewage Easement and its findings during the October 10, 2018, inspection, the Preserve Board filed a four-count Complaint against Appellants on October 25, 2018. (Compl., Oct. 25, 2018). The following three counts are against Ms. Fryberger and Quarryville Resorts: (Count I) Breach of Contract; (Count II) Declaratory Judgment; and (Count III) Quiet Title. The final count is against Quarryville Resorts and Mr. Flahart: (Count IV) Tortious Interference with Business Relations.

On January 7, 2019, Appellants collectively filed an Answer and Counterclaim for a Declaratory Judgment, petitioning this court to decree that the Sewage Easement—specifically the sewage system construction plan—does not violate the terms of the Conservation Easement. (Answer, January 7, 2019). Appellants subsequently filed a Motion for Summary Judgment just three weeks after the close of pleadings and before discovery ensued. The judge then-assigned to this case stayed Appellants' Motion until completion of discovery. (Order, March 28, 2019). Appellants' again filed a Motion for Summary Judgment on November 21, 2019. (Defs.' Mot. for Summary Judgment, Nov. 21, 2019). The Preserve Board filed its Motion Summary Judgment on December 23, 2019. (Pl.'s Mot. for Summary Judgment, Dec. 23, 2019). After both parties filed responses to the cross-Motions, oral argument was held on June 3, 2020. (Rescheduling Order, May 11, 2020).

Subsequently, I issued two orders on June 25, 2020. The first order denied Appellants' Motion for Summary Judgment and dismissed Appellants' Counterclaim. (Order, June 25, 2020). The second order granted the Preserve Board's Motion for Summary Judgment, enjoined Appellants from constructing the sewage system and related facilities on the Preserved Farm, prohibited Appellants from using the Preserved Farm for activities that fall outside those permitted under the Conservation Easement, and declared the Sewage Easement as written *void ab initio*. (Order, June 25, 2020). I later clarified that my grant of Summary Judgment in favor of the Preserve Board was on Counts one, two, and three of the Preserve Board's Complaint only. (Order, September 9, 2020). This timely appeal to the Commonwealth Court followed.

After receiving notice of the appeal, I ordered Appellants to file on record a Statement of Matters Complained of on Appeal. (Order, September 9, 2020). Appellants timely-filed a collective Statement on September 18, 2020. (Defs./Counter-Pls.' Statement of Matters Complained of on Appeal, Sept. 18, 2020).

LEGAL STANDARD

The court may grant summary judgment in a case where there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Lance v. Wyeth, 85 A.3d 434, 449 (Pa. 2014); Pa. R.P.C. 1035.2(1). Summary judgment is appropriate when, after considering the record in the light most favorable to the non-moving party, the right to such a judgment is clear and free from doubt. Marks v. Tasman, 589 A.2d 205, 206 (Pa. 1991); Jones v. SEPTA, 772 A.2d 435 438 (2001). A court must consider the entirety of the record—including, *inter alia*, pleadings and

depositions—in deciding whether summary judgment is appropriate. Penn Center House, Inc. v. Hoffman, 553 A.2d 900, 903 (Pa. 1989).

DISCUSSION

Appellants' collective Statement sets forth two matters complained of on appeal, which I summarize as follows: *first*, that I committed an error of law by denying Appellants' Motion for Summary Judgment and dismissing Appellants' Counterclaim for a declaratory judgment; *second*, that I committed an error of law in granting the Preserve Board's Motion for Summary Judgment on its breach of contract, declaratory judgment, and quiet title claims. (Defs./Counter-Pls.' Statement of Matters Complained of on Appeal, Sept. 18, 2020). For the following reasons, these matters have no merit and the Appeal should be dismissed

I. The Preserve Board's and Appellants' Declaratory Judgment Claims

I will address the claim that I erred in dismissing Appellants' Summary Judgment Motion and Counterclaim in conjunction with the claim that I erred in granting a declaratory judgment in favor of the Preserve Board. Both issues involve the same analysis and turn on the relationship between the Conservation and Sewage Easements.

Under Pennsylvania law, "[a]ny person interested under a deed . . . [or] written contract" may petition the court to "have determined any question of construction or validity arising under the instrument . . . and obtain a declaration of rights, status, or other legal relations thereunder." County Comm'r Ass'n of Pa. v. Dinges, 935 A.2d 926, 931 (Pa. Commw. Ct. 2007) (quoting 42 Pa. C.S.A. § 7533). A declaratory judgment is appropriate when circumstances are such that "imminent and inevitable litigation" is

threatened—when an actual controversy between the parties exists Berwick Twp V. O'Brien, 148 A.3d 872, 881 (Pa. Commw. Ct. 2016).

Because express easements are contractual in nature, Pennsylvania's longstanding rules of contract interpretation govern the parties' respective rights and obligations under both easements. Zettlemoyer v. Transcon. Gas Pipeline Corp., 657 A.2d 920, 924 (Pa. 1995) Where the terms of an easement are unambiguous, the court's inquiry stops at the plain meaning of the easement's terms See Joiner v. Sw. Cent Rural Elec. Co-op Corp., 786 A.2d 349, 352 (Pa. Commw. Ct. 2001); Humberston v. Chevron U.S.A., Inc., 75 A.3d 504, 510 (Pa. Super. Ct. 2013) Whether the terms of an easement are ambiguous is "a question of law to be decided by the courts." Lebanon Coach Co. v. Carolina Cas. Ins. Co., 675 A.2d 279, 283 (Pa. Super. Ct. 1996) (internal citations omitted). "Mere disagreement between the parties on the meaning of language or the proper construction of" the terms of an easement "does not constitute ambiguity." Pappas v. UNUM Life Ins. Co. of Am., 856 A.2d 183, 1887 (Pa. Super. Ct. 2004)

At the outset, this Court finds that a declaratory judgment is appropriate because an actual controversy exists between the parties; Appellants have executed the Sewage Easement and have taken steps toward constructing the sewage facilities on the Preserved Farm as contemplated in the Sewage Easement. My grant of Summary Judgment on the Preserve Board's declaratory judgment claim was proper because, as set forth below, the Sewage Easement violates the terms of the Conservation Easement and is *void ab initio*.

a. The Sewage Easement's Disposal Facilities Provisions Violate the Conservation Easement's "Solely for Agricultural Production" Requirement²

The Conservation Easement unambiguously limits use of the Preserved Farm to activities, construction projects, etcetera, that are *solely* for the purpose of agricultural production (Compl., Oct. 25, 2018, Ex C, Article 1). The commonplace meaning of "solely" is "to the exclusion of all else" or "without another." *Solely*, MERRIAM WEBSTER'S COLLEGIATE DICTIONARY (11th ed. 2003). This Court identifies "solely" as the dispositive and controlling term in this case; to comply with the Conservation Easement, a proposed use of the Preserved Farm must be *exclusively* for the purpose of agricultural production and *entirely without* any other purpose. It is without question that the Sewage Easement is not solely for the purpose of facilitating agricultural production on the Preserved Farm.

² Parties exchange arguments about the permissibility of the sewage facilities and instrumentalities under two additional sections of the Conservation Easement: Article 2's "Construction of Buildings and Other Structures" provisions and Article 4's "Utilities" provisions. Under Article 2, the Conservation Easement prohibits construction of buildings or other structures on the Preserved Farm except for those that are constructed for the purpose of "agricultural production." (Compl., Oct. 25, 2018, Ex C). Under Article 4, Ms. Fryberger may grant rights-of-way for, *inter alia*, the installation of water or sewage lines "in and through" the Preserved Farm (*Id.*) The Conservation Easement also requires any holder of liens or encumbrances on the Preserved Farm to "refrain from any action inconsistent with" the purpose of the Conservation Easement (*Id.*) Because the Sewage Easement clearly violates Article 1 and Article 6 of the Conservation Easement, Parties arguments regarding Articles 2 and 4 are superfluous and I need not address them thoroughly. I note in passing, however, that the Sewage Easement violates both Article 2 and Article 4. The sewage facilities and instrumentalities are not constructed for the purpose of agricultural production as required by Article 2. The sewage/water facilities and instrumentalities are not intended to originate "in" and run "through" the Preserved Farm as required by Article 4; instead, the sewage/water facilities and instrumentalities originate in Jellystone Park and ultimately dump Effluent on the Preserved Farm in a manner clearly inconsistent with the purpose of the Conservation Easement.

The Sewage Easement unambiguously contemplates facilities and activities that are partially, if not primarily, designed for the purpose of functioning as Jellystone Park's disposal system. Executed at the request of Quarryville Resorts, the Sewage Easement clearly burdens the Preserved Farm and benefits Quarryville Resorts and Jellystone Park. (Compl., Oct. 25, 2018, Ex. E, at 1). It mandates that Jellystone Park's Effluent take priority over any other material applied to the Preserved Farm. (Id. at 2) Similarly, the Sewage Easement allows Jellystone Park to discharge as much Effluent on the Preserved Farm as is necessary. (Id. at 5). Although Jellystone Park's ability to discharge Effluent is tempered by relevant environmental regulations and the Preserved Farm's Conservation and Nutrient Management Plans, the Sewage Easement's terms inevitably elevate Jellystone Park's disposal needs over best farming practices. (Id. at 2, 5) The Sewage Easement grants Quarryville Resorts / Jellystone Park the ability to discharge Effluent regardless of the weather and soil conditions on the Preserved Farm. In short, the Sewage Easement vitiates the ability of those cultivating the Preserved Farm to make informed and thoughtful decisions about whether to water or otherwise treat the crops. It is of no significance, therefore, that Appellants characterize the sewage facilities and instrumentalities as an agriculturally-oriented irrigation system; regardless of how it is labeled, the proposed system places the preserved farmland at the mercy of the volume of human sewage that Jellystone Park may generate at any given time.

The Sewage Easement also grants Quarryville Resorts exclusive ownership over all facilities and instrumentalities associated with the sewage disposal system (Id. at 5). It guarantees Quarryville Resorts access to those facilities and instrumentalities and

permits Quarryville Resorts to sample information (like the nitrogen soil concentration) from those facilities and instrumentalities. (Id. at 2). Although this information directly relates to the content and quality of the Effluent being discharged on the Preserved Farm, the Sewage Easement does not require Quarryville Resorts to share the information with Ms. Fryberger or Mr. Flahart unless specifically asked. (Id.) Finally, the Sewage Easement sets forth a rental fee to be paid by Quarryville Resorts to Ms. Fryberger, clearly acknowledging that the sewage disposal facilities and instrumentalities are an intrusion and burden on the farmland—that the facilities and instrumentalities are for the purpose of disposing of Jellystone Park’s unwanted human waste byproduct, not for the exclusive purpose promoting agricultural production on the Preserved Farm. (Id. at 6).

b. The Sewage Easement’s “Ancillary Activities” Provisions Violate the Conservation Easement’s “Rural Enterprise” Provisions

The Conservation Easement permits Ms. Fryberger or Mr. Flahart to engage in “customary part-time or off-season minor or rural enterprises and activities which are provided for in the County Agricultural Easement Purchase Program.” (Compl., Oct. 25, 2018, Ex. C, Article 6). On its face, the Conservation Easement unambiguously subjects this provision to the terms of the County Agricultural Easement Purchase Program, including the Lancaster County Agricultural Preserve Board Rural Enterprise Guidelines. (Id.) Under the Rural Enterprise Guidelines, “rural enterprise activities” must be “owned and operated by the owner of the restricted land or farmer in residence on the restricted land.” (Pl.’s Brief in Support of Mot. for Summary Judgment, Dec. 23, 2019, Ex. M).

The plain language of the Sewage Easement clearly violates this requirement. The Sewage Easement grants Quarryville Resorts “the *exclusive* right to grow crops for its *own use* and conduct additional ancillary activities on the 300 foot . . . by 600 foot . . . area at the northeast corner of the Easement Area.” (Compl., Oct. 25, 2018, Ex. E, at 2) (emphasis added). The Sewage Easement describes this 300-foot by 600-foot area as the “[Quarryville Resorts] Exclusive Use Area”. (*Id.*) The plain meaning of this unambiguous provision is that Quarryville Resorts—not Ms. Fryberger or Mr. Flahart—is the owner and operator of the right to grow pumpkins and conduct additional ancillary activities. Accordingly, this provision directly conflicts with the Conservation Easement’s requirement that only Ms. Fryberger or Mr. Flahart, as owner and operator respectively, own and operate rural enterprise activities occurring on the Preserved Farm.

For the foregoing reasons, this Court reads the relevant and material provisions expressly set forth in the Conservation and Sewage Easements as entirely unambiguous.³ Because disagreement between the parties on the meaning of an easement’s term will not impede disposition of the parties’ claims on summary judgment, this court finds that there is no genuine dispute of material fact. The

³ The Preserve Board and Appellants go to lengths in their filings to characterize the Sewage Easement as either a non-agricultural Effluent disposal system or as an agricultural irrigation system, respectively. As explained in this Opinion, this Court concludes as a matter of law that the terms of both at-issue easements are wholly unambiguous. However, to the extent that the parties insinuate the presence of ambiguity in the Conservation Easement’s “solely for agricultural purposes” requirement, it is clear to this Court that the intent behind the Conservation Easement mandates a finding that the Sewage Easement violates the Conservation Easement. See *Berwick Twp.*, 148 A.3d at 883 (explaining that in cases where easement language is ambiguous, the intent of the parties—as determined from the language of the written instrument, subject matter, and surrounding circumstances—controls); see also *supra* note 1.

Preserve Board is entitled to judgment as a matter of law in the form of a declaratory judgment and Appellants' appeal should be denied

II. The Preserve Board's Breach of Contract Claim

Appellants argue that I erred in granting summary judgment on the Preserve Board's breach of contract claim and in enjoining construction of the Sewage System and Quarryville Resorts' use of the Preserved Farm for activities that fall outside the activities permitted under the Conservation Easement. Under Pennsylvania law, a plaintiff must establish the following elements in a breach of contract action. (1) the existence and the essential terms of the contract; (2) defendant's breach of those essential terms, and (3) damages. Hart v. Arnold, 884 A.2d 316, 332 (Pa. Super. Ct. 2005).

Here, the at-issue contract is the Conservation Easement between the Preserve Board and Ms. Fryberger. The Preserve Board's breach of contract claim is premised on the argument that Ms. Fryberger breached the terms of the Conservation Easement by executing the Sewage Easement and by using the Preserved Farm in accordance with the Sewage Easement and in violation of the Conservation Easement.

My analysis in Section I regarding the ways in which the Sewage Easement violates the Conservation Easement is identical to a breach of contract analysis. Therefore, under the reasoning set forth in Section I(a), there is no genuine dispute that Ms. Fryberger breached the terms of the Conservation Easement by executing the Sewage Easement. The record also demonstrates that there is no genuine dispute over whether Quarryville Resorts used the farm for "ancillary activities" in contravention of the Conservation Easement. Thus, the Preserve Board is, as a matter of law, entitled to

summary judgment on its breach of contract claim. The Conservation Easement provides that, in the event of a violation of the agreement, the “[Preserve Board] . . . [is entitled to] obtain an injunction against such violation from a court or competent jurisdiction . . . to restore the [Preserved Farm] to the condition it was in prior to the violation, and recover any costs or damages incurred including reasonable attorney’s fees (Compl. Oct. 25, 2018, Ex. C). Appellants’ appeal should, therefore, be denied

III. The Preserve Board’s Quiet Title Claim

Appellants’ final argument is that I erred in granting summary judgment on the Preserve Board’s quiet title claim and in prohibiting Appellants from recording the Sewage Easement. The purpose of an action to quiet title is to resolve a conflict over an interest in property.” Nat’l Christian Conference Ctr. V. Schuylkill Twp., 597 A.2d 248, 250 (Pa. Commw. Ct. 1991) (citing Pa. R.P.C. No. 1061). Specifically, a quiet title action may be brought to “compel an adverse party to . . . cancel . . . a[] document, obligation or deed affecting any . . . interest in land.” Pa. R.P.C. 1061(b)(3). Even where a plaintiff is not in possession of the land in controversy, the plaintiff may bring a quiet title action when the plaintiff does not have an immediate right to possession and “wishes to determine all the rights in the land.” Siskos v. Brtz, 790 A.2d 1000, 1006 (Pa. 2002); see also Grossman v. Hill, 122 A.2d 69, 71 (Pa. 1956). To that end, Pennsylvania courts “have held that an easement is an interest in land for which an action to quiet title may be brought.” Nat’l Christian Conference Center, 597 A.2d at 250.

The Conservation Easement is a duly recorded, valid interest in land. There is no genuine dispute of material fact regarding the conflicting terms of the Conservation

and Sewage Easements. As explained at length above, the Sewage Easement's unambiguous terms clearly violate the terms of the Conservation Easement. Therefore, pursuant to this Court's authority under Pa. R.P.C. 1061(b)(3), granting summary judgment in favor of the Preserve Board and awarding the requested relief of cancelling and enjoining the recording of the Sewage Easement was proper.

CONCLUSION

The material facts of this case are set forth in the unambiguous terms of the Conservation and Sewage Easements and are not disputed. The terms of the Sewage Easement clearly violate the terms of the Conservation Easement. Consequently, the Preserve Board is entitled to judgment as a matter of law on its declaratory judgment, breach of contract, and quiet title claims. Appellants arguments on appeal are meritless and Summary Judgment in favor of the Preserve Board was appropriate. Accordingly, I enter the following:

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION — LAW

LANCASTER COUNTY AGRICULTURAL
PRESERVE BOARD
Plaintiff

vs.

DORIS F. FRYBERGER, BENJAMIN
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Defendants

CI-18-09307

ENTERED AND FILED
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PROTHONOTARY'S OFFICE
LANCASTER, PA

ORDER

AND NOW, this 9 day of November, 2020, the Court hereby submits this

Opinion pursuant to Rule 1925(a) of the Pennsylvania Rules of Appellate Procedure.

NOTICE OF ENTRY OF ORDER OR DECREE
PURSUANT TO PA R.C.P. NO. 238
NOTIFICATION - THE ATTACHED DOCUMENT
HAS BEEN FILED IN THIS CASE
PROTHONOTARY OF LANCASTER CO., PA
DATE: 11-12-20 *eyg*

att. C. Flahart

BY THE COURT:

[Signature]
JEFFERY D. WRIGHT
JUDGE



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