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This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-3466-15T1

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

BARBARA J. HERTZ,

Defendant-Appellant.

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Submitted December 19, 2017 – Decided January 8, 2018

Before Judges Fisher and Fasciale.

On appeal from Superior Court of New Jersey, Law Division, Morris County, Municipal Appeal No. 15-007-D.

Barbara J. Hertz, appellant pro se.

Fredric M. Knapp, Morris County Prosecutor, attorney for respondent (Paula Jordao, Assistant Prosecutor, on the brief).

PER CURIAM

Defendant appeals from a de novo conviction of abandoning a vehicle on private property, N.J.S.A. 39:4-56.6. Judge James M. DeMarzo entered the judgment and rendered an oral opinion. We affirm.

On appeal, defendant argues the following points:

<u>POINT I</u>
THE 'PRIVATE PROPERTY' IN ANY PART OF THE ROADWAY LAND, CANNOT BE PROVEN.

A. FAILING TO SUPPORT THEIR CLAIMS, THE SERVIENT LOTS WERE DENIED 'QUIET TITLE,' AND THEY DID NOT APPEAL. N.J.S.A. 2A:62-1.

B. THE SERVIENT LOT-OWNERS NOWACKI AND McLOUGHLIN THEREAFTER SOUGHT TO RESTRICT THE DOMINANT ESTATE'S USE OF THE ROADWAY FOR PARKING; THEIR DENIED MOTION WAS NOT APPEALED.

C. THE SERVIENT LOTS' SELF-IMPOSED RESTRICTIONS AFFIRM THE RESTRICTIVE COVENANT FROM THEIR INITIAL DEED.

<u>POINT II</u>
THE MUNICIPAL PROSECUTOR AND (LAY PROSECUTOR) SIEGFRIED FEURY, BREACHED THE DEFENDANT'S WRITTEN DISCOVERY DEMANDS.

<u>POINT III</u>
KNOWINGLY WITHHOLDING EXCULPATORY EVIDENCE DEMONSTRATED FRAUDULENT INTENT.

<u>POINT IV</u>
THE DEFENDANT'S REPEATED DEMANDS FOR THE TITLE INSURANCE POLICY SHOULD HAVE BEEN UPHELD BY THE MUNICIPAL COURT.

<u>POINT V</u>
THE DEFENDANT IS ENTITLED TO EXPLORE THE TITLE INSURANCE POLICY.

<u>POINT VI</u>
ASSIGNMENT JUDGE MINKOWITZ' DENIAL OF MOTION WITHOUT PREJUDICE, PRESERVED THE DISCOVERY DEMAND ON APPEAL.

POINT VII
JUDGE DeMARZO ACKNOWLE[D]GED THE MUNICIPAL COURT'S OMISSION, BUT NEGLECTED TO OFFER CORRECTION.

POINT VIII
JUDGE DeMARZO HAD APPROVED INCLUSION OF THE TITLE POLICY AND EVEN CITED IT IN HIS FINDINGS, BUT DENIED THE MOTION.

POINT IX
DE FACTO INCLUSION OF THE TITLE POLICY BY WRITING TEXT, SHOULD HAVE PERMITTED GRANTING THE MOTION TO SUPPLEMENT.

POINT X
A TITLE INSURANCE POLICY IS AN AUTHORITY.

POINT XI
TITLE POLICY EXCEPTIONS PROVIDE REASONABLE DOUBT: THE ELEMENT OF 'PRIVATE PROPERTY' IN THE ROADWAY LAND WAS NOT PROVEN.

POINT XII
THE FAILURE OF THE LOWER COURTS TO ADHERE TO PUBLISHED ORDERS, NECESSITATES REVERSAL OF FALSELY ALLEGED VIOLATIONS OF PRIVATE PROPERTY.

POINT XIII
PROPERTY ACCESS RIGHTS ARE NOT RESCINDABLE.

POINT XIV
MR. FEURY'S FAILURES TO PARTICIPATE IN THE CHANCERY COURT RESULTED IN DISMISS[AL] OR DEFAULT.

POINT XV
THE APPELLATE DIVISION'S JULY 8, 2016 UNPUBLISHED ORDER ON JUDGE HANSBURY'S CASES, CITING JUDGE WILSON'S (DISMISSED) INTERLOCUTORY ORDER, HAD INCORRECTLY ATTRIBUTED TO IT A RESPONSE TO THE 2010 ORDER TO REVERSE AND REMAND. IN THE INTEREST OF JUSTICE, THE PROVOKING MOTION(S) AND JUDGE

WILSON'S ORDERS ARE PROVIDED WITH JUDICIAL NOTICE. (Not argued below.).

A. JUDGE WILSON'S 2010 ORDER WAS REVERSED IN PART AND REMANDED BY A-0557-10, JULY 26, 2012 ORDER. (Not argued below).

B. MICHAEL NOWACKI'S JUNE 22, 2012 MOTION PREDATED THE APPELLATE DIVISION JULY 26, 2012 ORDER FOR A REMAND HEARING. (Not argued below.).

C. JUDGE WILSON CONSIDERED ONLY MR. NOWACKI'S PROPERTY AND THE LOCATION WHERE MRS. HERTZ WAS STANDING BY HER PARKED CAR.

D. JUDGE WILSON'S ORDERS HAVE NO RELEVANCE TO THE INSTANT MATTER.

POINT XVI
CONTRARY TO RULE 1:36-3, THE APPELLATE DIVISION'S ORDER IMPROPERLY CITED JUDGE WILSON'S OCTOBER 9, 2012 . . . INTERLOCUTORY ORDER . . ., AND DID NOT APPRECIATE THAT THE MAY 7, 2013 ORDER DISMISSED BOTH MOTION AND CROSS MOTION. . . . (Not argued below; with Judicial Notice . . .).

We conclude that defendant's arguments are "without sufficient merit to warrant discussion in a written opinion." R. 2:11-3(e)(2). We affirm substantially for the reasons expressed by the judge, and add the following brief remarks.

A Municipal Court judge found defendant guilty of abandoning her vehicle on private property, N.J.S.A. 39:4-56.6. The Law Division judge accepted the testimony from the State's witnesses, agreed with the Municipal Court judge's determination that

defendant's credibility was "impaired," and found defendant guilty. We had previously concluded that a chancery judge properly determined that defendant possessed easement rights in the particular area and another chancery judge also properly determined that the rights did not include the right to park a vehicle on the right of way. Hertz v. Travers, No. A-1787-14, No. A-3470-14 (consolidated) (App. Div. July 8, 2016) (slip op. at 3-4, 6). Instead of using the easement as intended, it was found that defendant left her vehicle on the property in violation of the statute. Id. at 4.

Affirmed.

I hereby certify that the foregoing is a true copy of the original on file in my office.

CLERK OF THE APPELLATE DIVISION