

GEIGER v. CAREY, 170
Conn.App. 459 (Conn.App.
2017)

170 Conn.App. 459 (Conn.App. 2017)

154 A.3d 1093

GORDON GEIGER ET AL.

v.

FRANCIS CAREY

AC 38080

Appellate Court of Connecticut

January 31, 2017

Argued December 7, 2016

[154 A.3d 1094] [Copyrighted Material Omitted]

[154 A.3d 1095] [Copyrighted Material Omitted]

[154 A.3d 1096] [Copyrighted Material Omitted]

[154 A.3d 1097] [Copyrighted Material Omitted]

[154 A.3d 1098] [Copyrighted Material Omitted]

[154 A.3d 1099] Action to recover damages for, inter alia, trespass, and for other relief, brought to the Superior Court in the judicial district of Litchfield, small claims session, where the matter was transferred to the regular civil docket; thereafter, the defendant filed a counterclaim; subsequently, the matter was tried to the court, J. Moore, J.; judgment for the defendant on the complaint in part and on the counterclaim in part, from which the named plaintiff appealed to this court.

SYLLABUS

The plaintiffs brought this action against their defendant neighbor, alleging claims for, inter alia, trespass, and seeking money and punitive damages, as well as injunctive

relief. The defendant then filed a seven count counterclaim alleging claims for, inter alia, private nuisance and trespass, and seeking to quiet title to certain property. The trial court rendered judgment for the defendant in part on the complaint and in part on his counterclaim, from which the named plaintiff appealed to this court. He claimed that the trial court improperly restricted his use of a right-of-way, awarded the defendant money damages, accepted the defendant's land survey as evidence, allowed the defendant to retain the majority of his fence, and barred a count of his complaint that was based on a statute of limitations defense. *Held* that the judgment of the trial court was affirmed, and the trial court having thoroughly addressed the arguments raised in this appeal in its memorandum of decision, this court adopted the trial court's well reasoned decision as a proper statement of the facts and the applicable law on the issues.

Gordon Geiger, self-represented, the appellant (named plaintiff).

James P. Steck, for the appellee (defendant).

Lavine, Beach and West, Js.

OPINION

[154 A.3d 1100]

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PER CURIAM.

The plaintiffs, Gordon Geiger and Elizabeth Geiger, brought this action against the defendant, Francis Carey, their next door neighbor, seeking money damages, punitive damages, and an order requiring the defendant to remove a fence. The complaint sounded in three counts: (1) trespass; (2) violation of Connecticut's tree cutting statute, pursuant to General Statutes § 52-560; and (3) malicious erection of a structure,

pursuant to General Statutes § 52-570. The defendant brought a counterclaim against the plaintiffs seeking injunctive relief, monetary damages, punitive damages, and an order of quiet title to the land under the fence and airspace above the fence. The counterclaim sounded in seven counts: (1) private nuisance; (2 through 4) trespass; ^[1] (5) quiet title; (6) intentional infliction of emotional distress; and (7) negligent infliction of emotional distress.

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On February 25, 2015, following a trial, the court rendered judgment by way of a memorandum of decision. As for the plaintiffs' complaint, the court rendered judgment in favor of the defendant and against the plaintiffs on counts one and two, and in favor of the plaintiffs and against the defendant on count three. The court ordered the defendant to remove one section of his fence and enjoined him from erecting another structure in its place. As for the defendant's counterclaim, the court rendered judgment in favor of Elizabeth Geiger and against the defendant on all counts; in favor of Gordon Geiger and against the defendant on counts one, six, and seven; and in favor of the defendant and against Gordon Geiger on counts two, three, four, and five. The court enjoined Gordon Geiger from stopping or loitering on the right-of-way that he shares with the defendant, and further enjoined him from placing barriers, barricades, or items on the right-of-way. The court ordered Gordon Geiger to remove a tree platform and enjoined him from erecting another structure in its place. The court further awarded the defendant damages in the amount of \$400.

The self-represented plaintiff, Gordon Geiger, claims on appeal that the court erred in: (1) awarding the defendant \$400 for the damage to the trees; (2) restricting the plaintiff's use of the right-of-way; (3) accepting the defendant's land survey as evidence; (4) allowing the

defendant to retain the majority of his fence; and (5) barring count one of his complaint based on a statute of limitations defense.

We have examined the record on appeal and considered the briefs and the arguments of the parties, and conclude that the judgment of the trial court should be affirmed. Because the trial court thoroughly addressed the arguments raised in this appeal, we adopt its well reasoned decision as a proper statement of the facts and the applicable law on the issues. See *Geiger v. Carey*, __ Conn.App. __, __ A.3d __, (2015) (appendix). Any further discussion by this court would serve no useful purpose. See, e.g., *Woodruff v. Hemingway*, 297 Conn. 317, 321, 2 A.3d 857 (2010).

The judgment is affirmed.

APPENDIX

GORDON GEIGER ET AL. v. FRANCIS CAREY^[*]

Superior Court, Judicial District of Litchfield

File No. CV-11-5007327-S

Memorandum filed February 25, 2015

Footnotes:

^[1]The defendant alleges in count two that Gordon Geiger continuously blocked the defendant's "ability to pass and repass" over a shared right-of-way. The defendant alleges in count three that Gordon Geiger obstructed the defendant's access to his property by placing "debris, fill, boulders and snow at the entrance" of the driveway. The defendant further alleges in this count that Gordon Geiger "dumped snow" on top of the defendant's trees, killing them. The defendant alleges in count four that the plaintiffs' "tree house/ tree platform" encroached on the defendant's property.

[*]Affirmed. *Geiger v. Carey*, 170 Conn.App. __, __ A.3d __, (2017).