Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2001-001

JANUARY TERM, 2002

Town of Poultney and Rupe Slate Company	}	APPEALED FROM:
v.	}	Rutland Superior Court
William W. and Norma H. Ruby	}	DOCKET NO. S0133-98RcC
	}	Trial Judge: Richard W. Norton

In the above-entitled cause, the Clerk will enter:

Defendants William and Norma Ruby appeal from the Rutland Superior Court's entry of summary judgment for plaintiff Town of Poultney declaring Poultney owner of a parcel land which is partially located in the Town of Wells, Vermont, and permanently enjoining the Rubys from trespassing on that land. We affirm.

This appeal presents the second time this matter has been before a panel of this Court. The first appeal considered the superior court's grant of summary judgment to the Town of Poultney and the Rupe Slate Company on their claims for trespass against the Rubys. Poultney and Rupe Slate Company each own a parcel of land adjacent to land owned by the Rubys, who defended plaintiffs' action claiming title to the two parcels by adverse possession. Although we held that the Rubys could not establish their adverse possession claim to the disputed parcels because they could not show open, notorious, hostile and continuous use of the land at issue for the requisite fifteen years, we reversed and remanded the trial court's order declaring Poultney owner of the portion of its parcel which is located in the Town of Wells. Town of Poultney v. Ruby, No. 99-547, slip op. at 2-3 (Sept. 15, 2000) (mem.). We explained that Poultney gained ownership to the parcel through an order of escheat, but that pursuant to statute, the order could affect the land located in the Town of Poultney only, not the portion of the land situated in Wells. Id. at 3. We directed that the trial court's order "should be revised and limited to enjoining the Rubys only from that portion of the Town lot that is located within the Town." Id. at 3-4.

After our remand of this matter, Poultney obtained a quitclaim deed from the Town of Wells for the portion of its lot located in Wells. At the post-remand hearing before the trial court, Poultney notified the court of the quitclaim deed and suggested that the issue on remand, that is, the revision to limit the no-trespass order to the portion of Poultney's property located in Poultney, was now moot. The Rubys disagreed and claimed that the Town of Wells did not have proper title to the property because it never brought its own escheat action relating to the portion of Poultney's property located in Wells. Following argument by both parties, the trial court indicated its inclination to enter a final order consistent with Poultney's position, but allowed the parties time to file written memoranda. The court later entered judgment for Poultney which declared Poultney the owner of the entire disputed lot and enjoined the Rubys from trespassing on it. The Rubys appealed.

On appeal, the Rubys assert that the Town of Wells could not convey good title to Poultney because the Town of Wells never brought an escheat action of its own to gain title to the disputed portion of the lot owned by Poultney. The Rubys

also argue that Poultney's escheat action was defective because two alleged tenants in common with Poultney's predecessor in title were not included in Poultney's escheat action. They contend that the court's order declaring Poultney the owner of the entire disputed lot is reversible because it "disregard[s] the rights of C.R. Beach Slate Company," a business owned and operated by the Rubys, "as well as the heirs of the two co-tenants." Neither C.R. Beach Slate Company nor the alleged co-tenants are parties to this case.

As they did in the previous appeal, the Rubys erroneously claim relief by asserting the legal interests of third parties rather than their own. See In re John L. Norris Trust, 143 Vt. 325, 328 (1983) (party must assert party's own legal interests and rights to obtain relief). Our prior order concluded that the Rubys could not establish any legal interest in any portion of the lot by virtue of adverse possession. Town of Poultney v. Ruby, slip op. at 3. By attacking the validity of the title transferred from the Town of Wells to Poultney, the Rubys seek to adjudicate the rights of third parties who may have a superior ownership claim to the Wells portion of the Poultney lot. But even if another party has a superior interest to the disputed portion of the Poultney lot, the holding in our prior decision remains: the Rubys have no valid claim to any portion of the disputed Poultney lot. Accordingly, we reject the Rubys' first claim of error because they have no standing to assert it.

The Rubys next argue that the court erred by declaring Poultney owner of the entire disputed lot because the complaint stated a claim for trespass and was not a request for a declaratory judgment or a petition to quiet title. They claim that the court could not vest Poultney with good title to the subject property without joining the two co-tenants or the C.R. Beach Slate Company who may have a legal interest in the property. The Rubys' brief does not provide any authority supporting this second claim of error nor does it explain the absence of such authority; the claim is therefore inadequately briefed under our rules. See V.R.A.P. 28(a)(4) (argument in brief shall contain citations to authorities); Allen v. Dep't of Employ. Sec., 141 Vt. 132, 135 (1982) (to be adequate under V.R.A.P. 28, brief must direct Supreme Court's attention to some relevant authority supporting party's position or explain absence of such authority).

We note, however, that the Rubys' argument is again derived from the rights of third parties which they have no standing to assert. In re John L. Norris Trust, 143 Vt. at 328. Moreover, the Rubys themselves put the issue of ownership squarely before the trial court by asserting adverse possession to defend the trespass claims. As a result, we fail to see how the Rubys' substantial rights were affected by the trial court's declaration of title. See V.R.C.P. 61 (errors not affecting a party's substantial rights are harmless and do not justify reversal).

Affirmed.

BY THE COURT:

_____
Jeffrey L. Amestoy, Chief Justice

_____
James L. Morse, Associate Justice

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Denise R. Johnson, Associate Justice