

The Supreme Court of the State of Louisiana

DEBORAH MARIE HORAIST

No.2021-C-00166

VS.

EDWARD A. PRATT AND JEAN JOHNSON
PRATT

IN RE: Edward A. Pratt - Applicant Defendant; Jean Johnson Pratt - Applicant Defendant; Applying For Writ Of Certiorari, Parish of Lafayette, 15th Judicial District Court Number(s) 2017-5592, Court of Appeal, Third Circuit, Number(s) 20-39;

March 23, 2021

Writ application granted. See per curiam.

WJC

JLW

JDH

SJC

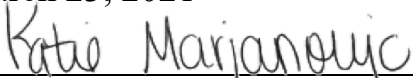
JTG

JBM

PDG

Supreme Court of Louisiana

March 23, 2021



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2021-C-00166

DEBORAH MARIE HORAIST

VS.

EDWARD A. PRATT AND JEAN JOHNSON PRATT

On Writ of Certiorari to the Court of Appeal, Third Circuit, Parish of Lafayette



PER CURIAM

WRIT GRANTED. Ownership and other real rights in an immovable may be acquired by the prescription of thirty years without the need of just title or possession in good faith. La. Civ. Code art. 3486. To acquire possession of property, one must take corporeal possession with intent to possess as owner. One is presumed to intend to possess as owner unless he began to possess in the name of and for another. La. Civ. Code art. 3427. Corporeal possession is achieved through the exercise of physical acts of use, detention, or enjoyment over a thing. La. Civ. Code art. 3425. The possession must be continuous, uninterrupted, peaceable, public, and unequivocal.

The trial court correctly found the Pratts acquired ownership of the disputed land through thirty-year acquisitive prescription. When the Pratts purchased their lot in 1977 a visual boundary existed, which they believed to be the property line. They began exercising possession up to this visible boundary beginning in September 1977. According to testimony, they placed swings, parked boats, and maintained the yard in this area since 1977. They constructed a wrought iron fence along a portion of the boundary and later constructed a wooden fence along the entire boundary line. The Pratts' possession began in 1977, and it was never questioned until Deborah Horaist purchased her lot in 2014. The trial court correctly set the

boundary along the existing wooden fence as the Pratts had acquired ownership of the land by thirty-year acquisitive prescription in 2007.

The court of appeal believed the Pratts could not prove possession because they did not erect the chain link fence or plant the crepe myrtle trees to create the original boundary. However, a possessor need not construct his own fence or boundary, but may occupy up to an existing fence line and prescribe on the land possessed. *See Cooper v. Farris*, 491 So.2d 390, 393 (La. Ct. App. 1986); *Kelley v. Stringer*, 422 So.2d 189, 192 (La. Ct. App. 1982), *writ denied*, 426 So.2d 177 (La. 1983). The court of appeal also misconstrued the Pratts' discussion with their neighbor before the building of new fencing on the existing line as evidence of precarious possession. These discussions do not disprove the Pratts' adverse possession, but actually support a finding that their possession was continuous, uninterrupted, peaceable, public, and unequivocal.

In a boundary action, "the boundary's location is a question of fact to be determined by the trier of fact, and such a determination should not be reversed on appeal in the absence of manifest error." *Cooper v. Farris*, 491 So.2d 390, 393 (La. App. 3d Cir. 1986). The TC's factual conclusions were reasonable and based on testimony and evidence presented at trial. Accordingly, we reverse the court of appeal's ruling and reinstate the judgment of the trial court.