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2026 VT 47

No. 25-AP-423

Craig Wich

v.

Laura Corcoran

Supreme Court

On Appeal from
Superior Court, Orange Unit,
Civil Division

May Term, 2026

Daniel P. Richardson, J.

Thomas C. Nuovo of Bauer Gravel Farnham, LLP, Colchester, for Plaintiff-Appellee.

Christopher J. Smart of Smart PLC, Montpelier, for Defendant-Appellant.

PRESENT: Reiber, C.J., Eaton, Waples, Nolan and Drescher, JJ.

¶ 1. **REIBER, C.J.** In this appeal from a partition action, defendant argues the trial court erred by holding that the six-year limitations period for civil actions in 12 V.S.A. § 511 barred her from obtaining credit for contributions she made to the property more than six years previously. She also claims the trial court erred in requiring her to pay property expenses pending the final sale or transfer of the property. We affirm the court's order regarding post-judgment expenses as within its discretion, but hold that contribution credits in a partition action are not limited by § 511, and therefore reverse and remand that aspect of the court's decision.

¶ 2. The following facts are undisputed. Plaintiff Craig Wich and defendant Laura Corcoran married in 1990 and jointly purchased a house in Strafford, Vermont four years later. Both lived at the property with their children until 2001, when defendant filed for divorce in

Vermont and plaintiff moved out. Two years later, the parties separately moved to Florida. In 2004, the family court in the Vermont divorce action issued an order determining parental rights and responsibilities and parent-child contact. However, the court did not address property division, spousal support, or grant a decree of divorce because of the parties' move to Florida. Defendant then filed for divorce in Florida where the parties' divorce was finalized in 2007. In its divorce decree, the Florida court valued the Strafford property and awarded plaintiff a 49.6% ownership interest and defendant a 50.4% interest.

¶ 3. That same year, defendant returned to Vermont and resumed living at the property with the children. The parties agreed that plaintiff would not assert his rights to the property until their youngest child graduated from college. In 2023, after their youngest child graduated, plaintiff filed this partition action in the Civil Division of the Vermont Superior Court.

¶ 4. The civil division found the parties' tenancy by the entirety in the property converted to a tenancy in common at the time of their divorce. It adopted the Florida court's ownership-interest percentages for the partition action and assigned value to each party's share.¹ It noted that the Florida divorce order required plaintiff to pay "half" of the then-existing two mortgages and attorney's fees.² It also noted that despite that order, defendant made all the mortgage and property-tax payments and paid for homeowner's insurance, heating oil, electricity, maintenance costs, and repairs after the divorce. Plaintiff did not contribute to any of these expenses. The court considered reducing plaintiff's interest by his portion of the expenses that defendant incurred, crediting defendant's share with plaintiff's offset. It concluded, however, that

¹ As the trial court recognized, the Florida court did not assign the property to either party or order partition or sale. The Florida divorce order was also silent as to the parties' responsibilities for the ongoing expenses for the property.

² The parties jointly requested the court modify its order to "remove any obligation to discharge or pay off" the lien for attorney's fees because it was no longer valid or binding on them or the property. The court granted this request.

12 V.S.A. § 511 barred recovery for expenses made more than six years previously, and reduced plaintiff's share accordingly. The court assigned the property to defendant, conditioned on her ability and willingness to purchase plaintiff's interest in the property. Defendant appeals.³

¶ 5. We review the trial court's "exercise of discretion in applying the equitable remedy of partition for abuse of discretion." Currie v. Jané, 2014 VT 106, ¶ 19, 197 Vt. 599, 109 A.2d 876. However, whether contribution credits in a partition action are subject to 12 V.S.A. § 511's six-year limitation period is a question of law we review de novo. Id.

¶ 6. Defendant first argues the trial court erred by concluding § 511 precluded credits for contributions made more than six years in the past because partition is an equitable remedy that requires the court to consider all relevant circumstances to ensure justice is served. We agree that § 511 does not apply and that the matter must be remanded to the trial court to apply the credits due to defendant.

¶ 7. Section 511 of Title 12 is the general statute of limitations for civil actions. Fitzgerald v. Congleton, 155 Vt. 283, 287, 583 A.2d 595, 598 (1990) (describing § 511 as "a catchall statute that applies to civil actions generally"). It requires such actions "be commenced within six years after the cause of action accrues and not thereafter." 12 V.S.A. § 511. The trial court reasoned that defendant's claim for contributions was independent of the partition statute and was therefore subject to § 511. We conclude that as an equitable remedy, contribution credits

³ Plaintiff's appellate brief refers to a cross-appeal and argues that the trial court erred by reducing his interest in the estate by amounts owed under the Florida court order because defendant did not file a counterclaim and the claims were more than six years old. To the extent this issue is not resolved by our holding here, we do not address the cross-appeal. The trial court record indicates plaintiff filed a notice of cross-appeal in the civil division, but no copy was filed with this Court. See V.R.A.P. 3(b)(1)(B)(i) (requiring appellant to provide copy of notice of appeal to Supreme Court); Moran v. State Ret. Bd., 2015 VT 119, ¶ 15, 200 Vt. 354, 131 A.3d 212 (explaining that "[i]dentifying the court to which an appeal is directed is not a mere formality, but rather a substantive requirement under Appellate Rule 3," and that "[e]ven under a liberal construction of the rule," an appeal filed "in the superior court does not meet this requirement because it does not name the Supreme Court as the forum for the appeal," and "fails to notify the opposing party and this Court of a proceeding here").

in a partition action are not time-barred by § 511. The trial court erred in concluding that it could not credit defendant for contributions made more than six years previously.

¶ 8. Partition originates from common law and is “both an action at law and an equitable remedy.” Martin v. Lyon, 2024 VT 68, ¶ 12, 220 Vt. 194, 329 A.3d 184. The statutes governing partition do not include a statute of limitations for partition. See 12 V.S.A. §§ 5161-5188. We have recognized that partition statutes expanded the trial court’s equitable powers; as such, the statutes should be liberally construed and “interpreted to give the trial court as many options as possible to achieve equity between the parties.” Wilk v. Wilk, 173 Vt. 343, 346, 795 A.2d 1191, 1193-94 (2002). Because a partition is equitable in nature, “ ‘courts should consider all relevant circumstances to ensure that complete justice is done.’ ” Id. at 346, 795 A.2d at 1194 (quoting 7 R. Powell, Powell on Real Property § 50.07[3][a], at 50-40 (M. Wolf ed. 2001)). It follows that contribution credits in a partition action are not subject to the statutory time limitation claimed here.

¶ 9. Co-tenants may partition a property they hold as tenants in common. 12 V.S.A. § 5161. We have held that once a co-tenancy is established, “the partitioning court should split the property in half and then consider equitable factors” in a specific order “[a]bsent a compelling alternative approach.” Whippie v. O’Connor (Whippie I), 2010 VT 32, ¶ 15, 187 Vt. 523, 996 A.2d 1154. First, the court should consider each party’s contributions to the “actual expenses of the house, including mortgage, insurance, taxes, utilities, repairs, and improvements. Id. Next, the court should determine whether there was ouster by the co-tenant in possession, and, if so, that rental value should be offset against the contribution claim. Id. ¶ 15. Finally, the court should consider “other equities cognizable in partition and then any allocation of costs and fees arising from partition.” Id.

¶ 10. While the facts in Whippie I are not the same as those before us here, applying this analytical framework shows the parties’ contributions toward the property are inextricably

intertwined with the partition action itself and the percentage shares conferred. Indeed, we have acknowledged that the equitable nature of contribution credits in a partition action reflect the burdens and benefits of partial ownership:

[T]he goal of partition actions is that a cotenant must equally share both the burdens of land ownership (i.e., the responsibility of preserving the land) as well as the benefits. Thus, if one cotenant bears a disproportionate share of the burden, the other cotenants must provide compensation, and if one cotenant enjoys a disproportionate share of the benefits, the other cotenants must be compensated to achieve partition's equitable goals.

Massey v. Hrostek, 2009 VT 70, ¶ 21, 186 Vt. 211, 980 A.2d 768 (quotations omitted), overruled on other grounds by Whippie v. O'Connor (Whippie II), 2011 VT 97, ¶ 14, 190 Vt. 600, 30 A.3d 1292 (mem.); see also Restatement (First) of Restitution § 105(2) (1937) (“A person who through legal proceedings procures or preserves property in which he and another have an interest may be entitled to reasonable compensation for his services and restitution of his expenses in obtaining or preserving the property.”).

¶ 11. Our recent decision in Martin v. Lyon supports the conclusion that contribution credits align with allotted property division percentages with no bar imposed by § 511. In Martin, we held that prejudgment interest is not available in a partition action because a partition award is not an award of “damages.” 2024 VT 68, ¶¶ 13-14 (holding “partition awards do not trigger prejudgment interest”); 12 V.S.A. § 5174 (providing that if property subject to partition cannot be divided without great inconvenience to interested parties, court may assign property to one party if they pay sum equal to equitable interest of other). There, we explained credit for a party's contributions “are part of the distribution of equity in the property . . . analogous to the physical partition.” Martin, 2024 VT 68, ¶ 13. Contribution credits in partition actions stem from the same equitable roots as the partition itself, and are not a claim for damages.

¶ 12. Plaintiff argues that statutes of limitations apply, at least by analogy, to equitable claims. See, e.g., McLaren v. Gabel, 2020 VT 8, ¶ 35 n.10, 211 Vt. 591, 229 A.3d 422 (per curiam)

(“Section 511 of Title 12 applies to actions for unjust enrichment.”); Collard’s Adm’r v. Tuttle, 4 Vt. 491, 492 (1832) (“Courts of Equity are bound by the statute of limitations; and it is regarded in a court of equity, as well as in a court of law, as running upon all legal titles and demands. . . . [E]quity adopts and takes the same limitation in cases that are analogous to those, in which it applies at law.”). He asserts that we applied this logic to a partition action filed by a tenant in common who was excluded from possession in Paul v. Prior, 137 Vt. 299, 404 A.2d 105 (1979) (per curiam). Plaintiff asserts that if, under Paul, it is legally justifiable to apply a statute of limitations to a partition action filed by an excluded co-tenant, there is no legal justification to not apply the statute of limitations to a party seeking monetary compensation for contributions made that benefit the property.

¶ 13. We disagree. Our holding and analysis here are consistent with Paul. There, we reversed the trial court’s decision dismissing the partition action as barred by the statute of limitations. Id. at 300, 404 A.2d at 106-07. We explained partition “is a continuing right” of each co-tenant, but the statute of limitations runs “against a [co-tenant] who had been excluded from possession, as of the time of such exclusion.” Id. (citing Coolidge v. Coolidge, 130 Vt. 132, 134, 287 A.2d 566, 568 (1971) (“The general law is that partition is a right incident to common ownership which a co-owner may demand absolutely.”)). This latter statement is an implicit reference to 12 V.S.A. § 501, the statute of limitations that would require an ousted co-tenant to bring an action to recover or possess land within fifteen years. There is no comparable statute of limitations within the partition statutes for claims for contribution credits. Moreover, here, although plaintiff claims he was excluded from the property, the trial court did not find there was ouster. Paul does not provide a basis for applying the statute of limitations.⁴

⁴ Our holding applies only to claims for credits made within the context of a partition action; we do not decide here whether a claim for contribution arising out of an ouster would be subject to § 511.

¶ 14. On appeal, defendant also argues the trial court abused its discretion by requiring her to pay the property's ongoing expenses while she occupied it after the court's order until sale. She appears to claim that she should have received additional credit for these future expenses. We see no abuse of discretion. The court assigned the property to defendant under 12 V.S.A. § 5174 because of her connection to it, subject to her ability and willingness to purchase plaintiff's interest within ninety days. The court said if defendant remained on the property during this period, she would be responsible for its ongoing expenses. Alternatively, if defendant vacated the property, she was to give plaintiff notice, at which point he would be responsible for the ongoing expenses. Given that defendant is in voluntary, exclusive possession of the property, requiring her to pay the interim costs pending the final transfer or sale of the property was equitable and not an abuse of discretion. See, e.g., Currie, 2014 VT 106, ¶ 29 (upholding trial court's partition division as equitable).

The trial court's requirement that defendant pay the property's ongoing expenses until sale is affirmed. The court's determination that contribution credits due to defendant are subject to 12 V.S.A. § 511's statute of limitations is reversed, and the matter is remanded for recalculation of the credits owed by plaintiff.

FOR THE COURT:

Chief Justice