

TURTLE MOUNTAIN COURT OF APPEALS

TURTLE MOUNTAIN INDIAN RESERVATION

Denise K. Lajimodiere,
Plaintiff-Appellee

vs.

Terrance L. Jerome,
Defendant-Appellant

No. TMAC-00-006

ORDER

The Defendant has appealed to this Court from a decision of the lower Court, the Honorable Chief Judge Francis Morin presiding, dated April 25, 2000 awarding and dividing real and personal property accumulated between the parties. The Appellant requests this Court to overturn the lower court's judgment that awarded the Appellee the monetary sum of \$14,450 for her interest in the premises purchased by the parties and ordered the Appellant to pay \$900.00 for furniture purchased by the parties and to pay for the value of two horses.

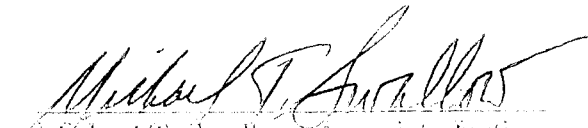
The Appellant asserts that the award of \$14,450.00 would in effect grant the Appellee free rent for the period that the parties resided in the home. However, the argument fails to account for the property that the Appellant is receiving, i.e., a home with improvements, that has a value of approximately \$50,000.00. Clearly, the Appellant has received the greater benefit from being allowed to retain the premises. The Court could have just as easily awarded the Appellee a one-half interest in the equity of the home, which in all likelihood could have been greater than the contribution.

With regard to the furniture, the Court finds this division to be equitable. The Court further finds the horses to be a gift and not subject to reimbursement. Based upon the foregoing, it is hereby

ORDERED, ADJUDGED and DECREED that the order of the lower court with respect to the house and the furniture is **AFFIRMED** and the court's order with regard to the horses is hereby **REVERSED**.

Dated this 3rd day of May, 2001.

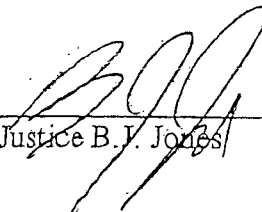

B.J. Jones, Chief Justice

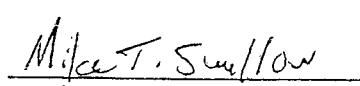

Michael T. Swallow, Associate Justice

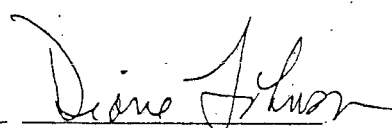
Lajimodiere v. jerome, order denying stay and granting appeal dated 5/12/00, p.2

ORDERED, ADJUDGED AND DECREED that the petition for permission to appeal is GRANTED and the Defendant shall file his brief within 45 days of this order and the Plaintiff shall file her brief within 45 days of receipt of the Plaintiff's brief. The Court will then take the matter under advisement.

So ordered this 12th day of May, 2000.


Justice B.J. Jones


Justice Michael T. Swallow


Justice Diane Johnson

TURTLE MOUNTAIN TRIBAL COURT
IN TRIBAL COURT OF APPEALS

BELCOURT, NORTH DAKOTA
CIVIL DIVISION

Green Tree Financial Servicing Corporation,
n/k/a Conseco Finance Servicing
Corporation,
PLAINTIFF/APPELLEE,

vs.

ORDER

Mabel DeCoteau, as personal
Representative of the Estate of
Philbert J. Vallie and Kevin
Vallie,

DEFENDANTS/APPELLANTS.

Kevin Vallie has once again petitioned this Court to review the order of the Trial Court, dated June 12, 2001, determining the amount of the lien the Defendants possess on a mobile home the Plaintiff is seeking to repossess. This Court entered its order of remand on September 25, 2000 directing the Trial Court to determine the fair market value of the lien of Kevin Vallie and to direct that this amount be paid prior to the Plaintiff repossessing the mobile home. The Court also requested the Trial Court to determine whether the Estate of Philbert J. Vallie should be entitled to receive some reimbursement for the substantial downpayment the decedent made on the mobile home contract shortly before he died and whether the Plaintiff should be barred from seeking any deficiency judgment, should one exist, after its resale of the mobile home.

The Tribal Court, per the Honorable Chief Judge Francis Morin, heard the issues on remand at hearing on the 17th day of April, 2001 and entered an order on June 12, 2001 finding that the fair market value of the lien was \$125.00 per month and directed that the Plaintiff pay the amount of \$4,000.00 to Kevin Vallie out of the proceeds derived from the resale of the mobile home. The Court did not deduct any amounts from that for the Defendant living there and also determined that the Defendants were not entitled to

reimbursement of the downpayment. Finally, the Court did not address the deficiency issue because the Plaintiff was not requesting a deficiency.¹

This Court grants the request for appeal from the remand order on one issue only. It is clear to the Court that the Chief Judge balanced the rights of each party and came up with a decision that is fair to both sides. The Appellant claims that the amount of Kevin Vallie's lien should be \$500 per day commencing April 24, 1997 which, up to the date of the remand hearing, would have been approximately \$700,000.00. This argument is specious. This Court has already in its previous decision decided that the lien should be the fair market value of the lot space the mobile home occupied while it sat on Kevin Vallie's land, and not an amount previously set by the Court prior to hearing. The Court also finds that the failure to order reimbursement of the downpayment was not error in light of the Court's decision to grant the fair market value of the lien without deducting the value to Kevin Vallie for living there rent-free for several years. The Court below adequately balanced the equities and issued a fair decision.

The Court below erred in one respect. In its decision directing a remand this Court specifically directed that the Plaintiffs pay the amount of the Defendant's lien prior to taking physical possession of the mobile home. This was ordered because of the possibility that this lien would not be recognized off-reservation. The Tribe, unlike North Dakota counties, do not have procedures in place for recording liens and this Court is concerned that the lien of the Defendants would not be recognized in an off-reservation resale of the mobile home.

WHEREFORE, it is hereby

ORDERED, ADJUDGED AND DECREED that the order of the Honorable Francis Morin dated June 12, 2001 is AFFIRMED in all respects except that the Plaintiffs shall satisfy the Defendant's lien by paying the amount of that lien to the Defendants prior to repossessing the mobile home rather than out of the proceeds of the resale.

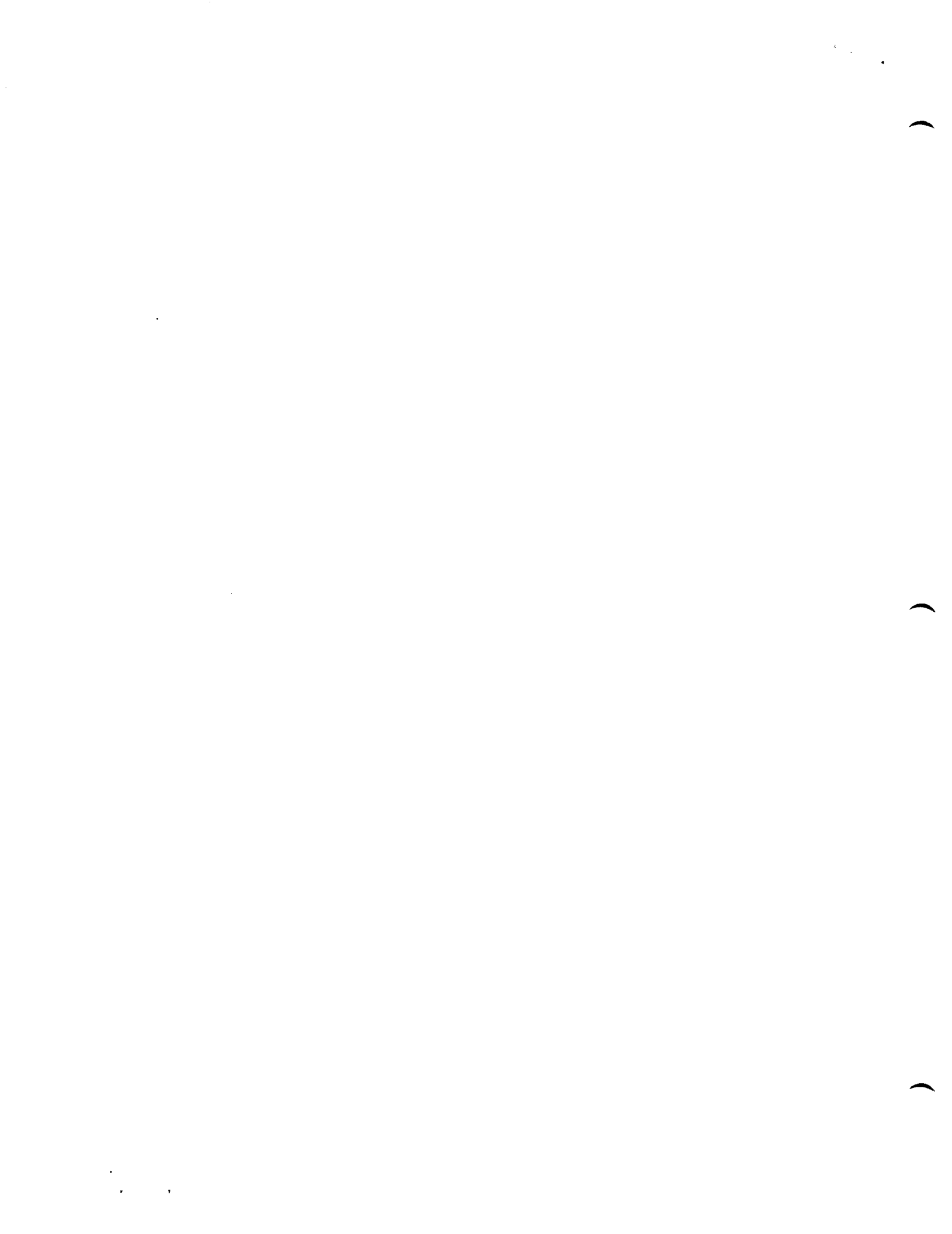
SO ORDERED THIS 13th day of September, 2001.

¹ . If the Plaintiff does seek a deficiency judgment against the estate after resale it would be appropriate for the Court to consider all factors surrounding the default and repossession of the mobile home before determining whether the Plaintiff is entitled to any deficiency judgment.

BY THE COURT:

Chief Justice B.J. Jones

Associate Justice Michael T. Swallow



TURTLE MOUNTAIN TRIBAL COURT
IN TRIBAL COURT OF APPEALS

BELCOURT, NORTH DAKOTA
CIVIL DIVISION

Levi A. Blue,
PLAINTIFF/APPELLEE,

vs.

ORDER

Shanna K. Martin,
DEFENDANT/APPELLANT.

The Defendant mother has appealed to this Court from an order of the Trial Court, the Honorable Victor DeLong presiding, awarding custody of two minor children of the Parties to the Plaintiff father. The mother asserts a variety of challenges to the decision below including allegations of sexual abuse by the father and insufficient evidence to change custody to the father. The Court believes that it is in need of the record from the hearing in this matter to determine the merits of the appeal filed herein.

NOW THEREFORE it is hereby

ORDERED, ADJUDGED AND DECREED that the Court directs the Clerk to file with the Court a copy of the recording from the hearing held in this matter and the Court upon the receipt of the same will expedite the matter because of the serious nature of the allegations being made and it is further

ORDERED, ADJUDGED AND DECREED that the request of the Defendant to stay the order below is DENIED at this time.

So ordered this 13th day of September, 2001.

BY THE COURT:

CHIEF JUSTICE

ASSOCIATE JUSTICE

TURTLE MOUNTAIN TRIBAL COURT

BELCOURT, NORTH DAKOTA

IN TRIBAL COURT OF APPEALS

CIVIL DIVISION

In the Matter of the Estate of:

Candus M. Bercier Warren,
DECEDENT.

ORDER

James Robert Bercier has filed a notice of appeal from the decision of the Court below dated June 14, 2001 determining the estate of the above-referenced decedent. Upon review it appears that the Appellant has requested a copy of the record and recording of the proceedings in order to file an amended notice of appeal setting forth specific errors in the proceedings below and good cause having been shown it is hereby

ORDERED, ADJUDGED AND DECREED that the Clerk shall transmit copies of the record to Counsel for Appellant who shall then have 15 days from the receipt of the record to file his amended notice of appeal setting forth specific errors for appellate review.

So ordered this 13th day of September, 2001.

BY THE COURT:

CHIEF JUSTICE

ASSOCIATE JUSTICE

TURTLE MOUNTAIN TRIBAL COURT

BELCOURT, NORTH DAKOTA

IN TRIBAL COURT OF APPEALS

CIVIL DIVISION

Keith Delorme, Ron Delorme and
Theresa Delorme, d/b/a Triple
Deuce Trucking ,

APPELLEES/PLAINTIFFS,

vs.

ORDER GRANTING APPEAL

Stearns Bank, Equipment Finance Div.,
APPELLANT/DEFENDANT.

The Defendant has appealed to this Court from an order dated June 13, 2001 refusing to dismiss, for lack of personal and subject matter jurisdiction, the Plaintiffs' complaint against the Defendant for an alleged wrongful repossession of certain personal property. After review of the petition for permission to appeal the Court does determine it has jurisdiction over the appeal because refusals to dismiss for lack of jurisdiction are considered "final orders" subject to this Court's jurisdiction and that the petition for appeal raises substantial issues that should be resolved before trial.

WHEREFORE, it is hereby

ORDERED, ADJUDGED AND DECREED that the petition for permission to appeal is granted and the Plaintiffs shall have 30 days from the date of this order to respond with its legal arguments in support of the Court's assertion of jurisdiction below. The Court considers the petition for appeal as the brief of the Defendant but the Defendant may have 15 days from the date of the submission of the Plaintiffs' brief to respond. The proceedings below shall be stayed pending consideration of the appeal.

So ordered this 13th day of September, 2001.

BY THE COURT:

CHIEF JUSTICE

ASSOCIATE JUSTICE