

ROSEBUD SIOUX TRIBAL COURT

ROSEBUD SIOUX SUPREME COURT 8:07 JUN -8 PM 2:01
ROSEBUD SIOUX RESERVATION)
ROSEBUD, SOUTH DAKOTA)
FILED

BY: _____
DOCKET # CA2006-06

BOBBA BURNETTE-CADENA
Plaintiff/Appellee

VS.

NOTICE OF ENTRY
OF ORDER

JUNE HITCHER,

Defendant/Appellant

TO: THE ABOVE-NAMED PARTIES

Please take notice that on the 8th day of June, 2007, the Honorable Chief Justice FRANK POMMERSHIEM and Associate Judges PAT LEE and LEROY GRAVES presiding, The Court entered an **OPINION AND ORDER**. A certified copy of said judgment of **ORDER** is enclosed and by this reference is incorporated herein and is herewith served upon you.

Dated this 8th day of June, 2007.

Clerk of Courts

Dorothy Nelson

CERTIFICATE OF SERVICE

I, Dorothy Nelson, Chief Clerk of Courts of Rosebud Sioux Tribal Supreme Court, hereby certify that I served a true and correct copy of the Notice of Entry of Order and copy of said Order upon the Appellant(s) and Appellee(s) as follows by placing in the U.S. Mail, postage prepaid, addressed as follows:

Dakota Plains Legal Services, Box 727, Mission, SD 57555
June Hitcher, PO Box 144, Okreek, SD 57563
Bobba Burnette-Cadena, PO Box 1472, Albuquerque, NM 87103

Dated this 8th day of June, 2007.

Clerk of Courts

Dorothy Nelson

eviction process by issuing a Notice to Quit to the Appellant in February 2005. After a hearing in the Tribal Court, an Order of Eviction was issued on November 15, 2005. The final stage of litigation was concluded on May 3, 2006, when Appellant's Motion for Reconsideration was denied. Appellant vacated the frame house on May 25, 2006, at which time the Appellee resumed possession and control of the frame house. Appellant appeals the eviction order even though she does not intend to reoccupy the frame house.

Discussion

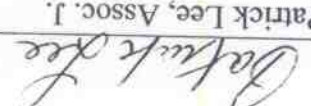
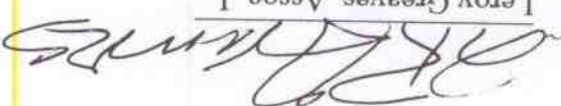
The JUDGMENT AND ORDER FOR EVICTION entered by the trial court on November 15, 2005, is based on its finding of fact that the Defendant/Appellant did not have a verbal or written rental agreement to reside in the frame house that is located on Lots 51 and 52. The Court also found that the frame house in question is owned by the Plaintiff/Appellee.

Much of the Appellant's argument on appeal is that title to Lots 51 and 52 has not passed to the Appellee and that conveyance of the land from the previous owner, John Kincaid, to Olive Arcoren was invalid for lack of Secretarial approval, which is necessary for the transfer of title in trust land. Appellee does not claim to have a clear title to Lots 51 and 52. She does claim ownership of the frame house which sets on cinder blocks and is unattached to the land. Ownership of the land on which the house sets is irrelevant to the issue of ownership of the frame house and the Court properly found that the Appellee was entitled to the eviction relief requested.

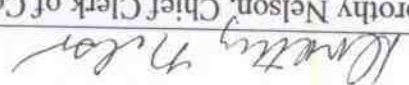
Appellant argues that the Appellee misrepresented ownership of Lots 51 and 52 when she attempted to sell the lots and house to Dan and Mary Stalcup. The fact that the sales agreement between Appellee and the Stalcups failed has no effect on Appellee's interest in the frame house which is separate from her interest in Lots 51 and 52. The trial court correctly found the Appellee is the lawful owner of the frame house and that the Appellant has no lawful right to occupy the house without Appellee's permission. The Judgment Order for Eviction is therefore AFFIRMED.

SO ORDERED on this 8th day of June, 2007.

BY THE COURT:


Patrick Lee, Assoc. J.

1st Frank Pommersheim, Chief J. Leroy Greaves, Assoc. J.

ATTEST:



Dorothy Nelson, Chief Clerk of Courts

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Chief Clerk of Courts