

Supreme Court, Appellate Division, Fourth
Department, New York.

David K. AHL, Plaintiff-Respondent,
v.
Cora JACKSON, Defendant-Appellant, et al.,
Defendants.

May 10, 2000.

Adverse possessor brought action to resolve dispute concerning certain parcel of property. The Supreme Court, Monroe County, Syracuse, J., granted summary judgment in favor of adverse possessor. Defendant appealed. The Supreme Court, Appellate Division, held that: (1) trial court properly determined that adverse possessor obtained title to disputed parcel by adverse possession, and (2) statement of adverse possessor in "fence affidavit" after statutory period had run was insufficient to divest him of title.

Affirmed.

West Headnotes

[\[1\] Adverse Possession](#)  13
[20k13 Most Cited Cases](#)

Trial court properly determined that adverse possessor obtained title to disputed parcel of property by adverse possession, where adverse possessor established that, for period of over ten years, he and his predecessors in title possessed disputed parcel and that their possession was open and notorious, exclusive, continuous, hostile and under claim of right.

[\[2\] Adverse Possession](#)  106(1)
[20k106\(1\) Most Cited Cases](#)

Once adverse possessor was vested with title to property by adverse possession, title could be transferred only by deed or other method recognized at law.

[\[3\] Adverse Possession](#)  106(1)
[20k106\(1\) Most Cited Cases](#)

Statement of adverse possessor in "fence affidavit" after statutory period had run that he did not claim the land did not constitute legal transfer of title; rather, affidavit at most constituted a recognition of record title in another, which was insufficient to divest adverse possessor of title after statutory period had run.

****778** Sidney K. Schoenwald, for Defendant-Appellant.

[G. Michael Miller](#), Rochester, for Plaintiff-Respondent.

PRESENT: [WISNER](#), J.P., [HURLBUTT](#), BALIO and [LAWTON](#), JJ.

****779 *965** MEMORANDUM:

[\[1\]\[2\]\[3\]](#) Supreme Court properly determined that plaintiff obtained title to the disputed parcel by adverse possession. Plaintiff established that, for a period of over 10 years, he and his predecessors in title possessed the disputed parcel and that their possession was open and notorious, exclusive, continuous, hostile and under claim of right (*see, Garrett v. Holcomb*, 215 A.D.2d 884, 885, 627 N.Y.S.2d 113; *Village of Castleton-on-Hudson v. Keller*, 208 A.D.2d 1006, 1008, 617 N.Y.S.2d 386; *Tubolino v. Drake*, 178 A.D.2d 951, 578 N.Y.S.2d 745). Because plaintiff was vested with title to the property by adverse possession, title may be transferred only by deed or other method recognized at law. The statement of plaintiff in a "fence affidavit" after the statutory period had run that he did not claim the land does not constitute a legal transfer. The affidavit constitutes at most ***966** a recognition of record title in another, which is insufficient to divest plaintiff of title after the statutory period had run (*see, City of Tonawanda v. Ellicott Creek Homeowners Assn.*, 86 A.D.2d 118, 123-124, 449 N.Y.S.2d 116, appeal dismissed 58 N.Y.2d 824).

Order and judgment unanimously affirmed without costs.

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