

SUPREME COURT  
OF THE  
ROSEBUD SIOUX TRIBE

ROSEBUD SIOUX TRIBAL LAND  
ENTERPRISE, ANN MORAN,  
LES SHERWOOD, and  
HOWARD SHERWOOD,  
Plaintiffs/Appellees

vs.  
MICHAEL (PRATT) MORAN,  
Defendant/Appellant.

CASE NO. CA2009-06

MEMORANDUM OPINION

AND ORDER

Per Curiam (Chief Justice Frank Pommersheim and Associate Justices Charles Abourezk and Deborah DuBray)

I. Introduction

In early April 2009, Michael (Pratt) Moran, defendant/appellant, moved a trailer onto land identified as Rosebud Tribal Land Enterprise (TLE) land (Assignment #1472-A, Ref. #89) located in Mellette County. Despite the fact that the land in question was part of land exchange involving his sister Ann Moran and currently leased to Les and Howard Sherwood, Mr. Moran believed in good faith that this was land he 'inherited' from his father as his father's sole designated heir at law.

No informal resolution of this matter was achieved by the parties and eventually Rosebud Tribal Land Enterprise (TLE), Ann Moran (lessor) and Les and Howard Sherwood (lessees) brought suit against Mr. Moran in the trial court seeking injunctive relief to remove Mr. Moran's trailer from the property in question.

After a hearing in the matter, including the submission of much documentary evidence, Judge Steven Emery on August 13, 2009, issued an order, supported by findings of fact and

conclusions of law, granting an injunction that authorized the removal of Mr. Moran's trailer from the land in question.

This appeal followed. Oral argument was heard before this Court on November 5, 2010.

## II. Issue

This appeal presents one issue, namely whether Michael Moran, defendant/appellant, is the *sole* heir of the deceased Robert Henry Moran, and possesses a legitimate claim to the land at issue in this case.

## III. Discussion

While it is clear to this Court that Mr. Moran's affection for his late father and his attachment to the land in question is considerable and is not questioned by this Court, his appeal fails as a matter of law. All the evidence and documents submitted to the court demonstrate that Mr. Moran is a legitimate heir of the decedent, Robert Henry Moran, but he is *not* the sole heir. In fact in the BIA administered probate of his father's estate in 1986, the Administrative Law Judge found that there were 15 children/heirs.<sup>1</sup> In addition, at different times, various individuals within the Bureau of Indian Affairs, the Rosebud Sioux Tribe, and TLE itself all examined Mr. Moran's assertion to be the sole heir of the decedent Robert Henry Moran and all of them (independently) reached the same conclusion that Michael Moran was not the sole legal heir of the decedent.

In light of these circumstances, it is clear that there was neither a mistake of law nor a mistake of fact made by the court below. The classic elements of the *Dataphase Systems, Inc. v. C.L. Systems, Inc.*, 640 F.2d 109 (*en banc* 1981) case for the issuance of injunctive relief namely,

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<sup>1</sup> They are: 1) Gladys Darlene Moran, 2) Peggy Ann Moran Brennan, 3) Roberta Henrietta Moran Bartels, 4) Robert Henry Moran, 5) Albert Lee Moran, 6) Roy Allen Moran, 7) Roger Arthur Moran, 8) Larry Aaron Moran, 9) Douglas Quentin Moran, 10) Alan P. Moran, 11) William Ray Moran, 12) Ronald L. Moran, 13) Michael H. Moran, 14) Lauren Lee Moran Harmon, and 15) Lani Sue Porter.

(1) the moving party's likely success on the merits; (2) the threat of irreparable harm to the moving party; (3) the balance between the harm and injury that granting the injunction will inflict on other interested parties; and (4) the public interest in the issuance of the injunction were clearly satisfied.

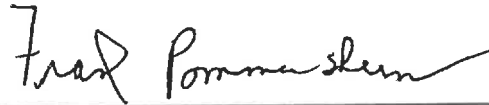
IV. Conclusion

For all the above-stated reasons, the decision of the trial court is affirmed.

IT IS SO ORDERED.

Dated this 1st day of December, 2010.

FOR THE COURT:

A handwritten signature in cursive script, reading "Frank Pommersheim", written in black ink. The signature is positioned above a horizontal line.

Frank Pommersheim  
Chief Justice