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No. 14783

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF ELKO

LOREN A. PIERCE and DORIS PIERCE,
Plaintiffs,
vs.
EDDY MAUZY and JANET MAUZY,
Defendants.

FILED

1979 MAR 29 PM 3:23

CLERK *R.L. Kane*

DEPUTY *Bob. Purdy*

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND JUDGMENT

The above-entitled civil action came on for trial before the above-entitled Court on the 28th day of March, 1979, the Hon. JOS. C. McDANIEL, District Judge, presiding without a jury. The matter had been set for trial by Stipulation and Order Setting Trial between GARY E. DI GRAZIA of the Law Firm of GOICOECHLA & DI GRAZIA, Elko, Nevada, Attorneys for Plaintiffs, and HY FORGERON, of Battle Mountain, Nevada, attorney for the Defendants. The Plaintiffs were represented at the trial by attorney, GARY E. DI GRAZIA; however, neither the Defendants nor Defendants' attorney, HY FORGERON, appeared. Evidence was presented on behalf of the Plaintiffs. The matter was argued and submitted to the Court.

THE COURT FINDS AS FOLLOWS:

Findings of Fact

I.

That pursuant to N.R.S. 14.065, personal service of a copy of the Summons, together with a copy of the Complaint, was served on the Defendants on the 25th day of October, 1977, at 1928 E. Fairfield, in the City of Mesa, County of Maricopa, State of Arizona.

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II.

That Defendants filed an Answer to Plaintiffs' Complaint January 2, 1978.

III.

That on or about June 8, 1975, Plaintiffs delivered to Defendant EDDY MAUZY a certain amount of turquoise which Defendant MAUZY was to either sell on a consignment basis and split half of the proceeds with Plaintiffs, or return the turquoise to Plaintiffs (See Plaintiffs' Exhibit 1).

IV.

On or about January 31, 1976, the Plaintiffs delivered an additional amount of turquoise to Defendants in Mesa, Arizona, which turquoise was to be worked on by the Defendants, and sold on a consignment basis (see Plaintiffs' Exhibits 3, 4, and 5). That said turquoise was to be sold and the proceeds were to be split between Plaintiffs and Defendants on a fifty percent basis, or, if it was not sold, it was to be returned to the Plaintiffs.

V.

That during the months of February and March of 1976, Plaintiffs demanded that Defendants either return one-half of the proceeds of any sales that had occurred, or to return the turquoise which had been delivered to Defendants.

VI.

That no time was set between the Plaintiffs and Defendants when the turquoise was to be sold or returned at the time the turquoise was delivered from Plaintiffs to Defendants.

VII.

That the total amount of funds received by Plaintiffs from Defendants as proceeds from the sale of any turquoise was \$1,127.50.

VIII.

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2 That Defendants returned some of the turquoise to
3 Plaintiffs on or before September 30, 1977 (See Plaintiffs'
4 Exhibit 6). Lee Britton, testifying as an expert witness in
5 the field of turquoise analysis and market values, stated that
6 the fair market value of the returned turquoise was \$5,647.00
7 as of September 30, 1977. Defendants did not return any turquoise
8 to Plaintiffs other than that turquoise listed on Plaintiffs'
9 Exhibit 6.

IX.

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11 That since no time was established for the return
12 of the turquoise, a reasonable period of time for the return
13 of said turquoise by the Defendants to the Plaintiffs after
14 Plaintiffs' demands during the months of February and March,
15 1976, would have been May of 1976. That Lee Britton testified
16 that the fair market value of the turquoise in its original
17 state as of May of 1976, was \$28,845.00. Mr. Britton explained
18 that the fair market value was 20% higher in May of 1976 than
19 the figures listed in Plaintiffs' Exhibit 7.

20 Conclusions of Law

21 I.

22 That the Court has personal jurisdiction over Defendants
23 Eddy Mauzy and Janet Mauzy.

24 II.

25 That Plaintiffs, Loren A. Pierce and Doris Pierce,
26 are entitled to the fair market value of the turquoise as of
27 May of 1976 in the amount of \$28,845.00, less credit given to
28 the Defendants for the fair market value of the turquoise returned
29 in the amount of \$5,647.00, and less credit for the monies received
30 by the Plaintiffs from Defendants in the amount of \$1,127.50.
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III.

Plaintiffs are the prevailing parties and should recover costs of suit together with interest from the Defendants.

J U D G M E N T

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Plaintiffs have and recover from Defendants, EDDY MAUZY and JANET MAUZY the sum of \$22,070.50, together with interest thereon at the rate of seven percent per annum from date of Judgment until paid, plus costs of suit in the amount of \$250.05, as proven by verified Memorandum of Costs and Disbursements filed within five days after service of notice of entry of this Judgment for a total Judgment of \$22,320.55.

DATED this 29th day of March, 1979.

/s/ Jos. O. McDaniel

DISTRICT JUDGE

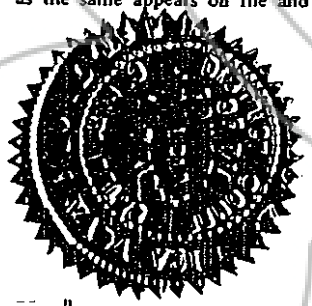
STATE OF NEVADA,
COUNTY OF ELKO.

ss.

I, R. L. KANE, County Clerk and ex-officio Clerk of the District Court of the Fourth Judicial District of the State of Nevada, in and for the County of Elko, do hereby certify that the annexed is a full, true and correct copy of FINDINGS OF FACT, CONCLUSIONS OF LAW AND

J U D G M E N T

as the same appears on file and of record in my office.



WITNESS my hand and the seal of said court affixed the 29th day of March, A.D. 1979.

R. L. Kane

Clerk

Bobbie Hunt

Deputy Clerk

ELKO INDEPENDENT PRINT

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RECORDED AT THE REQUEST OF Goicochea & DiGrazia
on March 30, 1979 at 30 mins. past 10 A.M. in
Book 69 of OFFICIAL RECORDS, page 413-416, RECORDS OF
EUREKA COUNTY, NEVADA. WILLIS A. DePAOLI Recorder
File No. 67998 Fee \$ 6.00

67998

BOOK 69 PAGE 416