

Term 

NOTICE: Decisions issued by the Appeals Court pursuant to its rule 1:28 are primarily addressed to the parties and, therefore, may not fully address the facts of the case or the panel's decisional rationale. Moreover, rule 1:28 decisions are not circulated to the entire court and, therefore, represent only the views of the panel that decided the case. A summary decision pursuant to rule 1:28, issued after February 25, 2008, may be cited for its persuasive value but, because of the limitations noted above, not as binding precedent.

COMMONWEALTH OF MASSACHUSETTS APPEALS COURT

MARGARITA ALVAREZ vs. GINA FIGUEIREDO.

13-P-861

MEMORANDUM AND ORDER PURSUANT TO RULE 1:28

The plaintiff, Margarita Alvarez, appeals from a Land Court summary judgment in favor of the defendant, Gina Figueiredo. This action arises from a dispute over ownership of a small vacant lot that abuts properties owned by the parties. The plaintiff asserts that the Land Court erred in entering summary judgment in favor of the defendant on the plaintiff's petition to correct an error in the certificate of title, pursuant to G. L. c. 185, § 114.

On appeal, '[w]e review a grant of summary judgment de novo.' *Miller v. Cotter*, 448 Mass. 671, 676 (2007). We look to the summary judgment record to determine 'whether, viewing the evidence in the light most favorable to the nonmoving party, all material facts have been established and the moving party is entitled to a judgment as a matter of law.' *Augat, Inc. v. Liberty Mut. Ins. Co.*, 410 Mass. 117, 120 (1991). See Mass.R.Civ.P. 56(c), as amended, 436 Mass. 1404 (2002).

Notwithstanding the inconsistencies in property description in several deeds comprising the defendant's chain of title, and apparent conveyances of so-called 'Lot 2' to more than one purchaser from the same transferors, we conclude that the judge did not err in entering summary judgment for the defendant.

The facts material to the issue of the defendant's title are undisputed. The defendant took title to registered land for value as a purchaser in good faith. See G. L. c. 185, § 114. Three years earlier the plaintiff had received a deed to a portion of the land described in the defendant's predecessor's certificate, but had never registered (or recorded) it. The certificates evidencing the defendant's predecessors' ownership contained no suggestion of duplicative transfers of the same property to different grantees. [\[FN1\]](#)

The statutory scheme governing registered land is unambiguous: '[A] purchaser of registered land taking a certificate of title for value and in good faith, shall hold the same free from all encumbrances except those noted on the certificate [and others not relevant here].' G. L. c. 185, § 46. '[C]ertificates of title are 'conclusive as to all matters contained therein,' except as otherwise provided in the statute. G. L. c. 185, § 54.' *Doyle v. Commonwealth*, 444 Mass. 686, 690 (2005), quoting from *Michaelson v. Silver Beach Improvement Assn.*, 342 Mass. 251, 260 (1961).

There is, naturally, an exception to an owner's reliance on the certificate recognized in the case of actual knowledge of a defect or encumbrance. No such circumstance is presented here. Even a claim of constructive knowledge is unavailing in this case in light of the plaintiff's failure to register

her deed and the absence from the registration system of any other evidence of her claim to ownership. See *Jackson v. Knott*, 418 Mass. 704, 711 (1994).

Judgment affirmed.

By the Court (Vuono, Grainger & Agnes, JJ.),

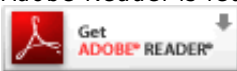
Entered: March 21, 2014.

[FN1](#). The consecutive conveyances, failures or delays in registering certificates and recording various deeds, and seemingly duplicative conveyances of the same property are set out in the briefs of the parties. As they are peripheral to our disposition we do not repeat them here.

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