

2000

# J. Kenneth Davies and Joseph T. Davies v. Vivian M. . Bezzant and Eva Jean Cornwell : Response to Petition for Rehearing

Utah Supreme Court

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BRIGHAM YOUNG  
J. Reuben Clark Law School

IN THE SUPREME COURT OF THE STATE OF UTAH

J. KENNETH DAVIES and	)	
JOSEPH T. DAVIES,	)	
	)	
Plaintiffs and Respondents,	)	No. 14049
	)	
vs.	)	
	)	
VIVIAN M. BEZZANT and	)	
EVA JEAN CORNWELL,	)	
	)	
Defendants and Appellants.	)	

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REPLY TO PETITION FOR REHEARING

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FILED

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Clerk, Supreme Court, Utah

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and Tippetts. That fact was recognized by the Uniform Real Estate Contract (defendants' Exhibit 3). The Uniform Real Estate Contract obligated Elder to acquire the additional land at no cost to the Olivers. That there was an agreement that additional land would be acquired by Elder is not disputed. Tippetts offered the land for \$300.00 but the Olivers refused to pay the \$300.00. The lack of agreement to which the court's decision referred was clearly the failure of Oliver to agree on the purchase price or to make the payment of it. The trial court's findings were supported by the testimony of the witnesses as well as by written documents.

The court's decision is clearly correct. To grant a rehearing would only result in a reargument of facts clearly understood by the court and to which facts the law of this jurisdiction was correctly applied.

Respectfully submitted,

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REPLY TO PETITION FOR REHEARING

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Respondents respectfully request that the court deny the petition for rehearing.

I

THE COURT'S DECISION IS CLEAR, CONCISE, CORRECT AND IS NOT, AS APPELLANTS ASSERT, CONTRADICTORY.

II

THE COURT'S DECISION CORRECTLY HELD THAT THERE WAS SUBSTANTIAL CREDIBLE EVIDENCE TO SUPPORT THE TRIAL COURT'S FINDINGS.

ARGUMENT

The court's decision correctly pointed out the essential element of the dispute in this case. The decision recites that defendants' predecessors in title had obtained some land from plaintiffs' predecessors in title. It correctly stated that stakes were set out in 1950 to mark an additional portion of land which was to be acquired by Elder from Beaman

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