

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2010 CA 1877

RONNIE ACOSTA, ROBERT CHAMBERLAIN AND  
BONNIE MONTGOMERY

VERSUS

PARISH OF LAFOURCHE

Judgment Rendered: JUN 10 2011

*Jmm*

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APPEALED FROM THE SEVENTEENTH JUDICIAL DISTRICT COURT  
IN AND FOR THE PARISH OF LAFOURCHE  
STATE OF LOUISIANA  
DOCKET NUMBER 108333, DIVISION "D"

THE HONORABLE ASHLY BRUCE SIMPSON, JUDGE

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BEFORE: WHIPPLE, McDONALD, AND McCLENDON, JJ.  
*Whipple, J. concurs.*  
*McClelland, J. concurs with result reached.*

**McDONALD, J.**

This appeal is from an action in district court regarding the dedication and maintenance of a subdivision street. For the following reasons, we affirm.

On March 26, 1979, Antill Subdivision was created by an Act of Partition in Lafourche Parish, and the map of the subdivision was recorded with the Lafourche Parish Clerk of Court. The Act of Partition formally dedicated “the street [Antill Drive] known on said subdivision plan to public use, unto and in favor of the Police Jury of the Parish of Lafourche, the inhabitants of the Parish of Lafourche and to the public in general, as a free and public street.”

Antill Drive is an unimproved dead-end street that is open for public use and has been used as a public street since 1979. On September 13, 1978, Local Ordinance Number 1240 was passed unanimously, providing for the minimum requirements for the construction of subdivision streets accepted into the Parish Road System. Antill Drive was not accepted into the Parish Road System.

On August 8, 2000, the Lafourche Parish Council entered into a Cooperative Endeavor Agreement with the residents of Antill Subdivision<sup>1</sup> to “assist the residents in the maintenance of Antill Drive, ...<sup>[2]</sup> and to provide such material and services as may be needed to properly upgrade and maintain these streets.” According to the petitioners, the Parish has not complied with this agreement.

In 2008, a suit for declaratory judgment was filed against the Parish of Lafourche, asking the district court to declare that: (1) Antill Drive is a public street which is owned by Lafourche Parish, or over which Lafourche Parish has a servitude of public use; (2) the Lafourche Parish Council was acting within its authority when it adopted Resolution No. 00-091 and acknowledged ownership by

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<sup>1</sup> We note that the appellants’ brief submits that the Agreement was between the Parish and the residents of Antill Subdivision. However, the Agreement stated that it was with the residents of Antill Drive. Obviously, residents of Antill Drive are residents of the subdivision, but the subdivision may have other residents that do not live on Antill Drive.

<sup>2</sup> The resolution also dealt with two other streets that are not involved in this litigation.

the parish over Antill Drive; (3) Lafourche Parish has a legal obligation to maintain Antill Drive; (4) the Cooperative Endeavor Agreement signed on August 8, 2000 between the Lafourche Parish Council and the residents of Antill Subdivision is a legal and binding contract; (5) Lafourche Parish is legally obligated to fulfill the terms of the Agreement; and (6) all costs of this suit are to be paid by the Parish. Several exceptions were filed and adjudicated by the district court. An answer and reconventional demand was filed by Lafourche Parish in March 2009.

Several procedural issues were addressed that are not relevant to the appeal in this matter. Ultimately, a motion for summary judgment was heard. The court issued written reasons on May 27, 2010, the same day that it rendered and signed a final judgment. Based on its findings, the court did not address whether the Lafourche Parish Council acted within its authority when it adopted Resolution No. 00-091. The court ruled that: (1) Lafourche Parish Council has a servitude of passage for public use over Antill Drive; (2) the parish is not obligated to expend public money to maintain Antill Drive; and (3) the Cooperative Endeavor Agreement for the improvement and maintenance of Antill Drive is null and void, as it applied to the residents of Antill Drive.

This appeal was filed alleging three assignments of error: (1) the trial court erred in ruling that Lafourche Parish has a servitude of passage over Antill Drive, rather than ruling that the parish owns the street; (2) the trial court erred in ruling that the parish is not obligated to expend public money to maintain Antill Drive; and (3) the trial court erred in ruling that the Cooperative Endeavor Agreement between the parish and the residents of Antill Drive is null and void.

The appellants correctly note the four modes of dedication of roads or streets to public use. They argue that the parish, either through dedication or under the Cooperative Endeavor Agreement, is obligated to maintain Antill Drive.

The district court issued extensive written reasons for its ruling. We have carefully reviewed them, as we have the entire record in this matter. We find no error of law in the district court's ruling. The factual findings are not manifestly erroneous, as they would have to be to allow this court to reverse them. *See Pierce v. State, Office of the Legislative Auditor*, 2007-0230 (La. App. 1 Cir. 2/8/08), 984 So.2d 61, *writ denied*, 2008-0542 (La. 4/25/08), 978 So.2d 369. In fact, the district court's reasons indicate that each of the petitioners' assertions was given consideration; however, the law did not allow the result they sought. We agree.

The jurisprudence on this subject does not cause us to reach a different result. In particular, we find *Clement v. City of Lake Charles*, 2010-703 (La. App. 3 Cir. 12/8/10) 52 So.3d 1054, distinguishable. Accordingly, the judgment of the district court is affirmed. This opinion is issued in compliance with Uniform Rules, Louisiana Courts of Appeal, Rule 2-16.1B. Appeal costs are assessed against the plaintiffs.

**AFFIRMED.**