State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: October 15, 2026 CV-25-1267

WALLKILL VALLEY LAND TRUST, INC.,
Appellant,
v

WILLIAM RICHARDS,
Defendant and Third-Party Plaintiff-Respondent;

TRACEY BARTELS,
Third-Party Plaintiff-Respondent;

WALLKILL VALLEY LAND TRUST, INC.,
Third-Party Defendant-Appellant.

TOWN OF GARDINER,
Respondent.

MEMORANDUM AND ORDER

Calendar Date: August 20, 2026

Before: Clark, J.P., Pritzker, Ceresia, Mackey and Corcoran, JJ.

Rupp Pfalzgraf LLC, Albany (*William F. Demarest III* of counsel) for appellant.

Stenger, Glass, Hagstrom, Lindars & Iuele, LLP, Wappingers Falls (*James Bacon*, New Paltz, of counsel), for defendant and third-party plaintiff-respondents.

Rodenhausen Chale & Polidoro LLP, Rhinebeck (*Janis M. Gomez Anderson* of counsel), for respondent.

Pritzker, J.

Appeal from an order of the Supreme Court (Kevin Bryant, J.), entered May 29, 2025 in Ulster County, which, among other things, denied plaintiff's cross-motion for partial summary judgment dismissing defendant's affirmative defenses and the third-party complaint.

Plaintiff, a not-for-profit conservation organization, commenced this action against defendant to protect certain property located in the Town of Gardiner, Ulster County and owned by the Town of Gardiner known as the Wallkill Valley Rail Trail, a public park spanning more than 22 miles at the site of a former railroad (hereinafter the rail trail). To that end, plaintiff sought to both enforce a conservation easement granted to it by the Town in 2007 and to pursue causes of action against defendant on behalf of the Town pursuant to an assignment of claims. Plaintiff alleged that, beginning in or around March or April 2023, defendant "conducted excavation, tree-trimming and removal, land-clearing, and other work" on property located at 56 Sand Hill Road[1] and that, due to his negligence, he caused work to occur on a portion of the adjacent rail trail. Plaintiff asserted a cause of action under RPAPL 861 for the destruction of trees as well as claims for trespass, negligence and unlawful interference with an easement. Plaintiff sought monetary damages, including treble damages, an injunction compelling defendant to restore the property to its prior condition and a permanent injunction enjoining defendant from conducting certain work on the rail trail.

Defendant answered and asserted three affirmative defenses, each premised upon his alleged property interest in portions of the rail trail. Defendant and third-party plaintiff Tracey Bartels filed a third-party complaint against plaintiff and the Town

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[1] Soon after commencement of this action, defendant conveyed the 56 Sand Hill Road property to third-party plaintiff Tracey Bartels.

(1) seeking quiet title to two parcels – parcels A and B (hereinafter collectively referred to as the parcels) – that adjoin the rail trail through adverse possession, (2) seeking a judgment that defendant and Bartels have a permanent easement over the rail trail – which they refer to as a "[f]arm [c]rossing" – pursuant to Railroad Law § 52 and (3) asserting a right of reentry to the parcels based on an 1868 deed, and that this right of reentry "merits judgment to the title of [the parcels] pursuant to the common law and RPAPL . . . 1521." Plaintiff and the Town separately joined issue, and plaintiff asserted counterclaims.

Prior to discovery, defendant and Bartels moved for summary judgment dismissing the complaint against defendant and, on the third-party action, awarding Bartels title to the parcels by adverse possession. The Town cross-moved for dismissal of the third-party complaint as asserted against it. Subsequently, defendant and Bartels entered into a stipulation with the Town discontinuing the third-party action against the Town with prejudice. Thereafter, plaintiff cross-moved for partial summary judgment dismissing defendant's affirmative defenses and the third-party complaint against it based upon, relevantly, the res judicata effect of the stipulation and the failure to join a necessary party. Supreme Court denied the motion and cross-motion without prejudice to same being resubmitted after the completion of discovery, finding, among other things, that plaintiff's res judicata and necessary party arguments were unpersuasive. Plaintiff appeals.[2]

By way of brief background, 56 Sand Hill Road is an approximately 10-acre property which is bordered by the Wallkill River and bisected by the rail trail. In 1868, defendant and Bartel's predecessor in title conveyed a strip of land – the rail trail – to the Wallkill Valley Railway Company to allow for the construction of a railbed and the laying of tracks for passage over the property. This conveyance was subject to the condition that the Railway erect and maintain a "good and sufficient fence" along the rail trail. However, to access and cultivate the portion of the property adjoining the river, defendant and Bartel's predecessor in title constructed and maintained a passage across the rail trail. Relevantly, a 1917 map identifies a "[f]arm [c]rossing" bisecting the rail trail. When the railbed was constructed, embankments were created on either side – the

[2] Contrary to defendant and Bartel's assertions, defendant's filing of an amended answer while this appeal was pending did not render the appeal moot inasmuch as defendant's three affirmative defenses have not been altered (*see Marston v General Elec. Co.*, 121 AD3d 1457, 1457 n 1 [3d Dept 2014]; *Aetna Life Ins. Co. v Appalachian Asset Mgt. Corp.*, 110 AD3d 32, 39 [1st Dept 2013]).

parcels – as well as drainage ditches. In 1977, the Railway ceased operations and did not continue to maintain the areas adjacent to the rail trail. The owners of 56 Sand Hill Road at that time assumed control of the maintenance of the parcels to, among other things, maintain the farm crossing. At some point prior to 1991, the Railway conveyed the rail trail to the Consolidated Rail Corporation which, in 1991, transferred the rail trail to plaintiff. In 1996, defendant's father purchased the property at 56 Sand Hill Road, and he and defendant allegedly used and maintained the parcels and the farm crossing to access the river. Defendant asserts that he continued this maintenance throughout the following years. In 2007, plaintiff sold the rail trail to the Town which, in turn, conveyed a conservation easement to plaintiff. In March and April 2023, defendant contended that he was performing his "usual and necessary" maintenance on the parcels, which ultimately led to plaintiff commencing this action.

We turn first to that portion of plaintiff's cross-motion for partial summary judgment seeking dismissal of the third-party complaint because the Town, as the fee owner of the rail trail, is a necessary party to the third-party complaint.[3] RPAPL 1511 (2) provides that, in an action brought under RPAPL article 15, "[w]here it appears to the court that a person not a party to the action may have an estate or interest in the real property which may in any manner be affected by the judgment, the court, upon application of such person, or of any party to the action, or on its own motion, may direct that such person be made a party." Necessary parties are "[p]ersons who ought to be parties if complete relief is to be accorded between the persons who are parties to the action or who might be inequitably affected by a judgment in the action" (CPLR 1001 [a]).

Defendant and Bartels, in the third-party complaint, seek a judgment of adverse possession declaring Bartels the owner of the parcels, a judgment that defendant and Bartels have a permanent and unrestricted easement over the parcels as well as a judgment that they have a right of reentry. As conceded by defendant in both his reply affirmation in support of his motion to dismiss and an affirmation filed in opposition to plaintiff's motion for summary judgment, defendant's affirmative defenses are based upon

[3] Contrary to defendant's contention, we disagree that plaintiff is collaterally estopped from claiming that the Town is a necessary party. The record demonstrates that plaintiff did not sign the stipulation and, although defendant asserts that plaintiff was aware of and agreed to the discontinuance, there is no evidence of same in this record. Nor is there any evidence in the record that defendant has, to date, moved to vacate the stipulation of discontinuance.

the same theories as the third-party complaint. Plaintiff correctly identifies an essential problem with each of these claims and affirmative defenses – namely, that all are premised upon defendant and/or Bartels having some form of superior right to the parcels, or the rail trail more generally, than plaintiff. However, it is undisputed that plaintiff does not own the rail trail but merely holds a conservation easement. Thus, if defendant and Bartels were to prevail on any of their claims in the third-party complaint the Town would necessarily be affected because that would result in an additional property interest – whether fee ownership, an easement or right of reentry – encumbering the Town's fee ownership of the rail trail. It is clear that this result would prejudice the Town by impairing its title. Accordingly, the Town, as the current owner, is a necessary party to the third-party complaint and must be joined (*see* RPAPL 1511 [2]; CPLR 1001 [a]; *Dunkin Donuts of N.Y., Inc. v Mid-Valley Oil Co., Inc.*, 14 AD3d 590, 592 [2d Dept 2005]; *Hitchcock v Boyack*, 277 AD2d 557, 558 [3d Dept 2000]; *see generally Sorbello v Birchez Assoc., LLC*, 61 AD3d 1225, 1226 [3d Dept 2009]).[4] However, by entering into the stipulation of discontinuance with prejudice with the Town, defendant and Bartels released a necessary party, requiring dismissal of the third-party complaint due to the nonjoinder of a necessary party (*see Katz v Village of Southampton*, 244 AD2d 461, 462 [2d Dept 1997], *lv denied* 95 NY2d 753 [2000]; *compare Sorbello v Birchez Assoc., LLC*, 61 AD3d at 1226).

We turn now to that portion of plaintiff's cross-motion for partial summary judgment seeking dismissal of defendant's affirmative defenses in the original action. Specifically, plaintiff contends that defendant is precluded by res judicata from asserting his affirmative defenses due to the stipulation of discontinuance in the third-party action.[5] Res judicata "bars successive litigation based upon the same transaction or series of connected transactions if: (i) there is a judgment on the merits rendered by a court of competent jurisdiction, and (ii) the party against whom the doctrine is invoked was a

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[4] Contrary to defendant's assertions, the Town was *not* a necessary party to plaintiff's claims against defendant because the Town assigned its claims against defendant to plaintiff (*see Cardtronics, LP v St. Nicholas Beverage Discount Ctr., Inc.*, 8 AD3d 419, 420 [2d Dept 2004]). Moreover, the assignment does not transfer ownership of the rail trail to plaintiff.

[5] Given that plaintiff did not sign the stipulation of discontinuance, after oral argument this Court requested further briefing as to whether such failure voids the stipulation ab initio. Having reviewed this briefing, we find that it does not (*see generally Barclays Bank of N.Y. v M & M Elecs. Assoc.*, 185 AD2d 580, 582 [3d Dept 1992]).

party to the previous action [or proceeding], or in privity with a party who was" (*Matter of People v Applied Card Sys., Inc.*, 11 NY3d 105, 122 [2008] [internal quotation marks and citations omitted], *cert denied* 555 US 1136 [2009]; *accord Whitney Lane Holdings, LLC v Don Realty, LLC*, 130 AD3d 1218, 1220 [3d Dept 2015]).

Initially, there can be no dispute that the affirmative defenses are based upon the same transaction – defendant conceded this in affirmations filed in Supreme Court. Specifically, "the remaining claims [after discontinuing against the Town] in the third-party complaint only serve to support [defendant's] affirmative defenses set forth in his answer to [plaintiff's] complaint." Next, the "stipulation of discontinuance with prejudice has the same preclusive effect as a judgment on the merits" (*Busher v Barry*, 223 AD3d 778, 780 [2d Dept 2024] [internal quotation marks and citations omitted]; *see Kirby v David Fabricators of N.Y., Inc.*, 236 AD3d 436, 437 [1st Dept 2025]). Finally, defendant, as a party to the third-party action and to the stipulation, had a "full and fair opportunity to litigate" his property claims against the Town (*Whitney Lane Holdings, LLC v Don Realty, LLC*, 130 AD3d at 1220 [internal quotation marks and citation omitted]; *see Gropper v 200 Fifth Owner LLC*, 151 AD3d 635, 635 [1st Dept 2017]). While there are references in both Supreme Court's decision and defendant's appellate brief alluding to conversations regarding the impact of the discontinuance on plaintiff's claims, the record before us is devoid of same and, thus, they cannot be considered by this Court (*see Matter of D.B.S. Realty v New York State Dept. of Envtl. Conservation*, 201 AD2d 168, 173 [3d Dept 1994]).

Clark, J.P., Ceresia, Mackey and Corcoran, JJ., concur.

ORDERED that the order is modified, on the law, without costs, by reversing so much thereof as denied plaintiff's cross-motion for partial summary judgment dismissing defendant's affirmative defenses and the third-party complaint; cross-motion granted to said extent; and, as so modified, affirmed.

ENTER:



Robert D. Mayberger
Clerk of the Court