Circuit Court for Baltimore County
Case No. C-03-CV-20-002197

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 463

September Term, 2022

SHARON SAUNDERS

v.

ELLEN GILMAN, ET AL.

Friedman,
Zic,
Battaglia, Lynne A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zic, J.

Filed: June 15, 2026

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

This appeal arises from a boundary dispute between neighbors in Baltimore County, concerning a narrow strip of land ("Disputed Property") that runs the length of the neighbors' adjoining property border. *See Saunders v. Gilman*, No. 463, Sept. Term, 2022, 2024 WL 1003289, at *1 (Md. Ct. Spec. App. Mar. 8, 2024), *cert. granted*, 488 Md. 385 (2024), and *rev'd and remanded*, 490 Md. 413 (2025). The Disputed Property is approximately 541 feet long and, on average, about 16.5 feet wide. Appellees Steven and Ellen Gilman (collectively, "Gilmans") conveyed the lot now owned by appellant Sharon Saunders, M.D. ("Dr. Saunders") to her late husband and his then-wife in 1973. That same year, the Gilmans planted a row of fir trees, began to plant pachysandra, and undertook landscaping and maintenance activities along what they believed was their side of the adjoining property line.[1] The Gilmans continued these planting and maintenance activities, without interruption or objection, for the next 46 years. In 2019, Dr. Saunders commissioned a survey that revealed that this strip of land, *i.e.*, the Disputed Property, had been inside her deeded property all along.

Dr. Saunders sued the Gilmans in the Circuit Court for Baltimore County, seeking, among other relief, a declaratory judgment establishing the boundary in accordance with the plat. The Gilmans filed an amended counterclaim to quiet title by adverse possession. After a multi-day bench trial, the court entered judgment in favor of the Gilmans,

[1] At oral argument before this court, Dr. Saunders' counsel conceded that the circuit court did not abuse its discretion in determining that the elements of adverse possession had been met for the "row of fir trees" and for the "short strip of land at Cavesdale Road." Nevertheless, Dr. Saunders' counsel argued that the "strip of land at Cavesdale Road" is Baltimore County's, not Dr. Saunders', property.

declaring them "the absolute owners of [the Disputed Property] by adverse possession[.]" Dr. Saunders timely appealed. On remand from the Supreme Court of Maryland, *see Saunders*, 490 Md. at 429-30, we now address the merits. For the reasons that follow, we affirm.

QUESTIONS PRESENTED

Dr. Saunders raises three questions on appeal, which we have recast as four and rephrased as follows:[2]

1. Did the circuit court err in denying Dr. Saunders' motion to dismiss the Gilmans' adverse possession counterclaim?
2. Did the circuit court abuse its discretion in admitting the Gilmans' survey exhibits?
3. Did the circuit court err in determining that the Gilmans had adversely possessed the Disputed Property?
4. Did the circuit court err in declining to apply the doctrine of unclean hands to bar the Gilmans' adverse possession counterclaim?

[2] Dr. Saunders phrases the questions presented as follows:

> I. Did the trial court err by finding that [the Gilmans] adversely possessed the cross-hatched area set forth on [the Gilmans'] Exhibit 10C.2 for [46] years where the record did not contain competent evidence that [the Gilmans] possessed that area for even the required [20] years?
>
> II. Did the trial court err by permitting [the Gilmans] to proceed through pleading, trial, and to a favorable judgment on adverse possession without providing the legal description required by Maryland Code, Ann., Real Prop. § 14-606 and case law?
>
> III. Did the trial court err when it ruled that equity permits a landowner to transfer property to another for monetary consideration then immediately begin adversely possessing the property thus sold?

For the reasons explained below, we answer all questions in the negative and affirm.

BACKGROUND

A. The Properties and the Parties

In 1972, the Gilmans, through their company, S. Gilman & Associates, Inc., purchased five unimproved, thickly wooded lots in Baltimore County, including Lots 12 and 13. The Gilmans built residential homes on Lots 12 and 13 and reserved Lot 12, at 2312 Cavesdale Road, for themselves. In 1973, the Gilmans sold Lot 13, at 2310 Cavesdale Road, to Dr. Saunders' deceased husband, Elijah Saunders, M.D., and his then-wife. Dr. Saunders moved into the property in 1997 and was added to the deed in 1998. Dr. Saunders became the sole owner of Lot 13 upon her husband's death in 2015. The two lots share a common border that runs approximately 541 feet from Cavesdale Road to the rear of the properties.

B. The Gilmans' Possessory Activities from 1973 to 2019

Beginning months after selling Lot 13, the Gilmans embarked on what would become 46 years of continuous use of the Disputed Property. In the spring or summer of 1973, the Gilmans' landscaper planted 11 fir trees and three hemlock trees in a line along what the Gilmans believed to be on their side of the shared boundary between Lots 12 and 13. The trees grew into a prominent and visible boundary feature. Mr. Gilman testified that it was the Gilmans' "intention[] . . . to plant the linear trees just on [their] side of the common property boundary[,]" and that "it [was] obvious . . . that they had been planted" and that the Saunders family "couldn't help but to see . . . them." In 2018,

the Gilmans installed a three-rail fence parallel to the row of fir trees, on the side nearest Dr. Saunders' property.

Beginning in 1972 or 1973, Mrs. Gilman planted pachysandra throughout the Disputed Property, particularly under and along the row of fir trees. She testified that she had "planted at least 100,000 pachysandra," earning her a family nickname as "the pachysandra queen[.]" She tended to the pachysandra continuously for decades by planting, weeding, mulching, and expanding the beds as the plants spread. Dr. Saunders herself acknowledged that she had "seen Mrs. Gilman weeding in th[e] pachysandra over the years" since 1997 and had been present "when [Mrs. Gilman] was putting in the pachysandra."

From the 1970s onward, Mr. Gilman regularly maintained the Disputed Property by mowing, clearing brush, removing scrub vegetation, blowing leaves, and progressively expanding lawn into previously wooded areas. One of the Gilmans' sons, Charles Gilman, corroborated that beginning around 1986 or 1987, he assisted his father weekly with landscaping the Disputed Property, and that his father "never stopped working that land." The Gilmans also used the rear of the strip for recreational purposes, including a sandbox, a swing set, and later, a lacrosse net.

Charles also testified that when he was approximately 13 or 14 years old,[3] he later worked in the area with a chainsaw to cut trees and brush down, which he would do around two to three times per week during the summer. After the lacrosse net was

[3] At the time of trial, Charles was 40 years old.

removed, the back part of the Disputed Property was replaced with "well-maintained grass." Around 2015 or 2016, Mr. Gilman installed two berms[4] in the wooded portion, and, in 2017, installed a swale to redirect water runoff. Dr. Saunders herself testified that she had observed Mr. Gilman cutting the grass in the Disputed Property "from 1997, onward," and that he stopped only "around 2019/2020," when this litigation began. She acknowledged that the only work she had ever done in the Disputed Property was cutting the grass, as she considered it "a neighborly thing to do" and conceded that she was making no assertion of ownership in so doing.

In October 2019, 46 years after the row of fir trees was planted, Dr. Saunders commissioned a property survey. The survey revealed that the row of fir trees, the pachysandra beds, the cleared lawn, and the more-recently constructed fence all encroached on Dr. Saunders' deeded property. Both parties testified that they were unaware of the true location of the boundary line until that survey.

[4] Mr. Gilman explained for the court the definition of a berm, as follows:

> A[] berm is a fancy word for a pile of dirt. . . . [I]t could be used to create privacy. And so, a berm, basically, is a pile of dirt. It, it can be as high as you can manage. It can be as wide at the base as you can manage. In this particular case, [] we built the berm about 8, or 10 or 12 inches tall. Maybe about 2 feet wide at the base. And the purpose [] for which we built the berm was to stop the flow of water. Sometimes, you drive around neighborhoods, you'll see that people [] built berms in front of their house just to create a little privacy, but in this case, . . . it was to stop the water flow [] and direct it . . . down the hill.

C. The Litigation

In May 2020, Dr. Saunders filed suit in the Circuit Court for Baltimore County, seeking a declaratory judgment under § 14-111(c) of the Real Property ("RP") Article of the Maryland Code, (1974, 2015 Repl. Vol.), establishing the boundary in accordance with the deeds, together with related law claims (trespass, destroying merchantable timber, conversion, intentional infliction of emotional distress, and injunctive relief). The Gilmans filed a counterclaim pursuant to RP § 14-606 to quiet title to the Disputed Property by adverse possession. The amended counterclaim attached the deeds for both lots, identified Dr. Saunders' property by street address, and included a satellite photograph depicting the area claimed.

Dr. Saunders moved to dismiss the counterclaim, contending that RP § 14-606 required the Gilmans to provide a metes and bounds description of the carved-out portion, rather than the deeded descriptions of the parties' lots. The circuit court denied the motion, determining that the Gilmans were "not required to submit a metes and bounds description within the counter-claim filed" and that the legal descriptions of both lots, as contained in the Land Records of Baltimore County, satisfied the statute. The court severed the equity counts (Dr. Saunders' claim for declaratory judgment and the Gilmans' counterclaim) from the law counts, and the equity claims proceeded to a bench trial. Only the equity claims are before us on appeal.

At trial, the Gilmans' designated survey expert, Leon Podolak, was found to hold a lapsed corporate survey license; subsequently, the court struck his testimony and survey. The court also precluded the surveyor who performed the on-the-ground work, William

V. Aldridge, Jr., because he had not been timely disclosed as an expert witness. Notwithstanding the exclusion of those witnesses, Dr. Saunders' own surveyor, Bernard Linsenmeyer,[5] took the stand, was accepted by stipulation as an expert in boundary surveying, and ultimately laid the foundation for the Gilmans' survey exhibits, Exhibits 10C.1 (a metes and bounds description of the Disputed Property) and 10C.2 (an annotated satellite image), having personally staked out and prepared a boundary survey of the Disputed Property before testifying.[6] The court admitted both exhibits over Dr. Saunders' continuing objection.

D. The Circuit Court's Ruling

On April 29, 2022, the circuit court issued a detailed oral opinion, later memorialized in a written order dated October 6, 2022. The court found that the Gilmans satisfied every element of adverse possession with respect to the cross-hatched area depicted in Exhibit 10C.2. The court found that the adverse possession commenced in 1973 with the planting of the fir trees, and that the Gilmans' continuous landscaping, planting, mowing, clearing, and recreational use constituted continuous, uninterrupted

[5] Mr. Linsenmeyer, Dr. Saunders' expert surveyor, was accepted by the court as an expert in boundary surveying, the siting of objects on surveys, the requirements for creating boundary surveys, and the preparation of plats and related survey representations. Mr. Linsenmeyer testified that he was a licensed surveyor with "expertise [] in the field of surveying land[,] [t]aking metes and bounds[,] [a]nd coming up with legal descriptions so that plats can be made[.]"

[6] At the bench trial, Mr. Linsenmeyer affirmed that he had the capacity, as a licensed surveyor, to verify the metes and bounds of Mr. Aldridge's survey. At a continuation of the bench trial, on March 9, 2022, Mr. Linsenmeyer verified that he had the opportunity to "run [] the bearings and the distances on the exhibit and to verify those numbers for closure. . . ."

possession of the entire Disputed Property.[7] The court concluded that the Gilmans had "established a right to adverse possession by 1993[,]" and that their possessory "activity since 1993 until October 2019, continued, and in fact, most likely increased. . . ."

On the issue of equity, the court found "that both [parties] were unaware of the correct boundary line until the property survey[,]" and that there was "no credible evidence to support that . . . there was a scheme on the part of the Gilmans" to take Dr. Saunders' land. The court "reject[ed] the theory" that Mr. Gilman's filings with the Land Records of Baltimore County had given the Gilmans knowledge of the true boundary line, and, accordingly, "disregard[ed] [Dr. Saunders'] claim of unclean hands[.]" In its written order, the court denied Dr. Saunders' claim for declaratory judgment, and declared that the Gilmans were "the absolute owners of [the Disputed] [P]roperty by adverse possession."

E. Procedural History on Appeal

Dr. Saunders timely noted an appeal. In our initial decision, we dismissed the appeal "for lack of a final judgment." *Saunders*, 2024 WL 1003289, at *1. The Supreme Court of Maryland reversed our decision and remanded for consideration on the merits. *Saunders*, 490 Md. at 429-30. We supplement with additional facts below.

[7] For accuracy, we note that there appears to be a transcription error in the circuit court's oral ruling indicating that Mrs. Gilman "started planting pachysandra in 2072 [sic][.]" We adopt the court's finding that Mrs. Gilman began planting pachysandra in the 1970s.

STANDARD OF REVIEW

Several standards of review govern this appeal. Following a bench trial, we review "the case on both the law and the evidence." Md. Rule 8-131(c). We "will not set aside the judgment of the trial court on the evidence unless clearly erroneous, . . . giv[ing] due regard to the opportunity of the trial court to judge the credibility of the witnesses." *Id.* "[T]he standard of review of the grant or denial of a motion to dismiss is whether the trial court was legally correct." *Myers v. State*, 248 Md. App. 422, 430-31 (2020) (quotation omitted). "We review the denial of a motion to dismiss *de novo*[,]" accepting all well-pleaded facts and reasonable inferences in the light most favorable to the non-moving party. *Id.* at 431 (emphasis added) (citing *D.L. v. Sheppard Pratt Health Sys., Inc.*, 465 Md. 339, 350 (2019)) (further citation omitted); *Bartlett v. Portfolio Recovery Assocs., LLC*, 438 Md. 255, 273 (2014) (quotation omitted).

We review a trial court's rulings on the admissibility of evidence, including questions of authentication, for abuse of discretion. *Irwin Indus. Tool Co. v. Pifer*, 478 Md. 645, 667 (2022). A court abuses its discretion when its decision is "manifestly unreasonable, or [is] made on untenable grounds, or for untenable reasons." *Schade v. Maryland State Bd. of Elections*, 401 Md. 1, 34 (2007) (citation omitted). "If any competent material evidence exists in support of the trial court's factual findings, those findings cannot be held to be clearly erroneous." *Collins/Snoops Assocs., Inc. v. CJF, LLC*, 190 Md. App. 146, 160 (2010) (quoting *Figgins v. Cochrane*, 403 Md. 392, 409 (2008)).

Whether a claimant has actually possessed disputed land "is a fact-intensive inquiry," *Senez v. Collins*, 182 Md. App. 300, 325 (2008), and where, as here, the circuit court's findings rest on conflicting testimony and photographic evidence spanning decades, we are particularly reluctant to disturb them. *See Hoang v. Hewitt Ave. Assocs., LLC*, 177 Md. App. 562, 576 (2007) ("A factual finding is clearly erroneous if there is no competent and material evidence in the record to support it."). "[W]here the order involves an interpretation and application of Maryland statutory and case law, [we] must determine whether the [trial] court's conclusions are 'legally correct' under a *de novo* standard of review." *Saxon Mortg. Servs., Inc. v. Harrison*, 186 Md. App. 228, 263 (2009) (cleaned up) (emphasis added) (quoting *Walter v. Gunter*, 367 Md. 386, 392 (2002)). Accordingly, we review *de novo* whether the elements of adverse possession have been satisfied as a matter is law.

DISCUSSION

I. THE CIRCUIT COURT DID NOT ERR IN DENYING DR. SAUNDERS' MOTION TO DISMISS.

A. Parties' Contentions

Dr. Saunders argues that the circuit court erred in denying her motion to dismiss the Gilmans' adverse possession counterclaim. She contends that RP § 14-606 required the Gilmans to provide a "legal description" of the Disputed Property in their counterclaim, and that their failure to provide a metes and bounds description of the Disputed Property—as distinct from the descriptions of the parties' deeded parcels —rendered the counterclaim fatally deficient.

The Gilmans contend that "[l]egal descriptions for both the Saunders and the Gilman properties . . . as they appear on the land records of Baltimore County" satisfy the statute's requirement for a legal metes and bounds description.

B. Legal Framework

RP § 14-606, enacted in 2016, sets forth the pleading requirements for an action to quiet title. The complaint "shall include[,]" among other things, "[a] description of the property that is the subject of the action, including both its legal description and its street address or common designation, if any[.]" RP § 14-606(1). "When interpreting a statute, . . . we begin 'with the plain language of the statute . . . .'" *Johnson v. State*, 258 Md. App. 71, 88 (2023) (quoting *Johnson v. State*, 467 Md. 362, 371 (2020)). "Throughout our reading of the statute, '[t]he cardinal rule of statutory interpretation is to ascertain and effectuate legislative intent.'" *Johnson*, 258 Md. App. at 88 (quotation and citation omitted). "When the 'words of a statute are ambiguous and subject to more than one reasonable interpretation, . . . a court must resolve the ambiguity by searching for legislative intent in other indicia.'" *Id.* (quoting *Lockshin v. Semsker*, 412 Md. 257, 276 (2010)).

RP § 14-606 does not define "legal description" and does not require submission of a metes and bounds description of any particular sub-parcel or contested fraction. The legislative history confirms that the "legal description" requirement serves a venue and

jurisdictional purpose.[8] Including the legal description and street address of the parcels at issue thus gives the court the information it needs to confirm proper venue and jurisdiction. *See* S.B. 509 (2016) – Fiscal and Policy Note, [https://perma.cc/7HXW-UKTM] (explaining that an action to quiet title "must be brought in the circuit court for the county where the property or any part of the property is located").

C. Analysis

We hold that the circuit court did not err in denying Dr. Saunders' motion to dismiss because the Gilmans' counterclaim included precisely what RP § 14-606 requires. It identified Dr. Saunders' deeded property, Lot 13, 2310 Cavesdale Road, and attached the corresponding deed, the deed for the Gilmans' Lot 12, and a satellite photograph showing the parties' lots and the area claimed. Those land-record descriptions were sufficient to identify the real property involved in the litigation and to confirm proper venue and jurisdiction in Baltimore County.

Dr. Saunders' contrary reading of RP § 14-606, which would require an adverse possession claimant to plead a metes and bounds description of the contested fraction of land during the pleading stage of litigation, is not supported by the plain language of RP § 14-606 or its legislative history. As the Gilmans correctly observe, a carved-out portion

[8] RP § 14-606 is modeled on a similar provision of the California Code of Civil Procedure. *See* S.B. 509 (2016) – Fiscal and Policy Note, [https://perma.cc/7HXW-UKTM]. The analogous California rule requires a pleading to include the legal description of the real property "that is the subject of the action[,]" Cal. Civ. Proc. § 872.230(a), "for the purpose of showing that the property is within the jurisdiction of the court[.]" *Broome v. Broome*, 179 Cal. 638, 646 (1919).

of land claimed in any meritorious adverse possession action will necessarily lack "its own deed description [and] street address." To require such a description at the pleading stage would effectively bar most adverse possession quiet title claims from being pleaded at all, a result that the General Assembly plainly did not intend.

Even if RP § 14-606 were read to require some description of the carved-out fraction at the pleading stage, the Gilmans complied. Their counterclaim attached a satellite photograph depicting the Disputed Property, and they later supplied the precise metes and bounds description, admitted as Exhibit 10C.1. The circuit court's pretrial order expressly anticipated that approach, providing that ". . . a survey of any property determined to be the subject of adverse possession will be required and that metes and bounds description will then be part of an order by this court and filed in the land records of Baltimore County." That is, in fact, exactly what occurred. Accordingly, the circuit court did not err in denying the motion to dismiss.

II. THE CIRCUIT COURT DID NOT ABUSE ITS DISCRETION IN ADMITTING THE GILMANS' SURVEY EXHIBITS.

A. Parties' Contentions

Dr. Saunders argues that the survey exhibits "lacked foundation for their admission, were inadmissible hearsay and, as exhibits of essential importance to the adverse possession claim, [] could not be admitted solely to assist an expert of the trier of fact." She relies principally on *Boettcher v. Van Lill*, 263 Md. 113 (1971), and *Jacob Tome Inst. v. Davis*, 87 Md. 591 (1898), for the proposition that unauthenticated maps and plats are inadmissible.

The Gilmans contend that the exhibits were properly authenticated through the testimony of Dr. Saunders' own surveyor, Mr. Linsenmeyer, "who testified as to the accuracy of the survey that was performed on the adversely possessed ground. . . ." The Gilmans' brief was not responsive to Dr. Saunders' hearsay argument.

B. Legal Framework

Maryland Rule 5-901(a) provides that "[t]he requirement of authentication . . . is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims." "The burden of proof for authentication is slight[.]" *Dickens v. State*, 175 Md. App. 231, 239 (2007). Maps and plats are properly authenticated when they are shown to be based upon data which was compiled under the supervision of the witness through whom they are offered or where the witness is a qualified surveyor capable of interpreting and verifying the document. *See Warcyznski v. Barnycz*, 208 Md. 222, 228-29 (1955) (holding that "[t]he plat was authenticated by the signature of [the witness surveyor's employer, a registered surveyor], which [the witness surveyor] identified.") (citation omitted).

As to hearsay, Maryland Rule 5-803(b)(15)[9] recognizes an exception for "[a] statement contained in a document purporting to establish or affect an interest in

[9] Maryland Rule 5-803(b)(15) provides:

> A statement contained in a document purporting to establish or *affect an interest in property* if the matter stated was relevant to the purpose of the document, unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of

property . . . ." A "boundary survey plat signed and sealed by a professional land surveyor . . . licensed in the State" constitutes such an instrument. RP § 3-102(a)(2)(ii).[10] "When urging an exception to a rule of exclusion, [] the burden is upon the proponent of the exception. The correct procedural posture is, 'Hearsay will be excluded, unless the proponent demonstrates its probable trustworthiness.'" *Mason v. State*, 258 Md. App. 266, 293 (2023) (quotation and emphasis omitted).

C. Analysis

The circuit court did not abuse its discretion in admitting Exhibits 10C.1 and 10C.2. Dr. Saunders' reliance on *Davis* is misplaced. *See* 87 Md. at 607 (holding that the trial court erred in admitting a plat that was "not shown to have been made by any public authority, nor . . . shown to be correct"). Here, the Gilmans laid a thorough foundation through Mr. Linsenmeyer, a qualified surveyor whose expertise was stipulated. Mr. Linsenmeyer had personally staked out and prepared a boundary survey of the Disputed Property before testifying, and he ran the bearings and distances of the metes and bounds description in Exhibit 10C.1, confirming that it that it formed a "a valid, current survey parcel description because it ha[d] closure" to a precision "within 3/10,000s of a foot[.]" When the Gilmans' counsel overlaid a Baltimore County plat onto

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> the document or the circumstances otherwise indicate lack of trustworthiness.

(Emphasis added.)

[10] "Any boundary survey plat signed and sealed by a professional land surveyor or property line surveyor licensed in the State" and "[a]ny other instrument affecting property" may be recorded. RP § 3-102(a)(1), (2)(ii).

Exhibit 10C.2, Mr. Linsenmeyer testified that the boundary lines "appear[ed] to be accurate." That testimony more than satisfied the "slight" burden of authentication. *Dickens*, 175 Md. App. at 239. Dr. Saunders does not point us to any authority suggesting that the authentication burden changes simply because an authenticating expert has been called by an opposing party. "This Court cannot be expected to seek out law or facts in favor of either party. Accordingly, we will not reach this issue." *Oxley v. Frederick Mem'l Hosp.*, 268 Md. App. 575, 588 n.6 (2026).

Dr. Saunders' hearsay argument is also unavailing. The exhibits fall squarely within Maryland Rule 5-803(b)(15) as "statements in documents affecting an interest in property[.]" Dr. Saunders herself concedes that Exhibits 10C.1 and 10C.2 "were offered to establish the metes and bounds of property" in the context of an adverse possession claim plainly affecting both parties' interests in the Disputed Property. Both exhibits bear the seal and license number of a Maryland surveyor, Mr. Aldridge. They are statements contained in instruments affecting property under RP § 3-102(a)(2)(ii).

Moreover, pursuant to Maryland Rule 5-803(b)(15), the Gilmans established the trustworthiness of Exhibits 10C.1 and 10C.2 through the development of Mr. Linsenmeyer's testimony. *See Mason*, 258 Md. App. at 293 (noting that the proponent of the hearsay exception bears the burden of proof as to trustworthiness) (quotation omitted). Mr. Linsenmeyer recognized Exhibit 10C.1 as "a legal description of the metes and bounds describing a boundary for [] some ground on Lot 13. . . ." He did not correct the court's characterization of Exhibit 10C.1 as a "a blowup plat[.]" Similarly, Mr. Linsenmeyer characterized Exhibit 10C.2 as a "plat" and confirmed that "[t]he metes and

bounds on the legal description [(Exhibit 10C.1)] and on the drawing [(Exhibit 10C.2)] do match." As stated above, notwithstanding Mr. Podolak's lapse in licensure, Mr. Linsenmeyer affirmed the accuracy of Exhibits 10C.1 and 10C.2.

Accordingly, we hold that the circuit court did not abuse its discretion in admitting the survey exhibits.[11]

III. THE CIRCUIT COURT DID NOT ERR IN DETERMINING THAT THE GILMANS ADVERSELY POSSESSED THE DISPUTED PROPERTY.

A. Parties' Contentions

Dr. Saunders argues that the circuit court's adverse possession ruling was not supported by competent evidence that the Gilmans actually occupied the entirety of the Disputed Property for the 20-year statutory period. Citing to *Peters v. Staubitz*, 64 Md. App. 639 (1985), *Porter v. Schaffer*, 126 Md. App. 237 (1999), and *Miceli v. Foley*, 83 Md. App. 541, 555 (1990), she contends that, in the absence of color of title or some visible boundary encompassing all of the Disputed Property, the Gilmans were required to prove actual occupation of every contested area. Dr. Saunders also argues that the circuit court impermissibly aggregated newer improvements, such as the 2014 berm and swale and the 2018 fence, with older activities to manufacture 20 years of possession. Finally, she invokes the "woodlands exception" recognized in *Breeding v. Koste*, 443 Md. 15 (2015), arguing that the wooded portions of the property carry a presumption of permission that the Gilmans failed to overcome.

[11] Consequently, we are not persuaded by the argument that the Gilmans "fail[ed] to identify the [D]isputed [P]roperty" by not "defining the scope of land they sought and how that was distinct from the already existing land records. . . ."

Quoting *Peters*, 64 Md. App. at 647, the Gilmans contend that adverse possession does not require occupation of "every square inch of the disputed property for every moment of the statutory period. . . ." They point to 46 years of continuous landscaping, planting, mowing, clearing, and recreational use—precisely, they argue, the "maintenance" and "management . . . that one would expect the . . . owner of such land to undertake." *Senez v. Collins*, 182 Md. App. 300, 328 (2008) (quoting *Blickenstaff v. Bromley*, 243 Md. 164, 171 (1966)). The Gilmans do not respond to Dr. Saunders' woodlands exception argument.

B. Legal Framework

Adverse possession allows a party who is not the record owner to acquire legal title by the passage of time. *Yourik v. Mallonee*, 174 Md. App. 415, 422 (2007). To establish adverse possession, "the claimant must show possession of the claimed property for the statutory period of 20 years. . . . Such possession must be actual, open, notorious, exclusive, hostile, under claim of title or ownership, and continuous or uninterrupted."[12] *Senez*, 182 Md. App. at 323-24 (quoting *White Pines Cmty. Improvement Ass'n*, 403 Md. 13, 36 (2008) (citations omitted)). "[T]he pertinent inquiry is whether the claimant has proved the elements based on the claimant's *objective manifestation* of adverse use, rather than on the claimant's subjective intent." *Breeding*, 443 Md. at 28 (emphasis

[12] This Court has grouped these elements into three: "possession must be (1) actual, open and notorious, and exclusive; (2) continuous or uninterrupted for the requisite period; and (3) hostile, under claim of title or ownership." *Senez*, 182 Md. App. at 324.

added) (quotation omitted). This Court has recognized that adverse possession claims have a "fact-intensive nature[.]" *Senez*, 182 Md. App. at 343.

Actual possession requires that the claimant physically occupy and use the property in a manner consistent with ownership. Where, as here, "adverse possession is not claimed under color of title, it extends only to the land actually occupied by the claimant." *Peters*, 64 Md. App. at 645 (citing *Costello v. Staubitz*, 300 Md. 60, 68 (1984)) (additional citation omitted). Even so, "there is no precise formula for determining what constitutes actual occupation, [and] it would be virtually impossible to require that a claimant use every square inch of the disputed property for every moment of the statutory period to establish adverse possession." *Peters*, 64 Md. App. at 647. Instead, courts must "consider the character of the land and the uses and purposes to which it is adapted because the type of possessory acts necessary to constitute actual possession in one case may not be essential in another." *Id.* at 647 (citations and internal marks omitted). Additionally, possession is open and notorious where the adverse possessor's activities are of such a visible and obvious character that a property "owner may be presumed to have notice of it." *Senez*, 182 Md. App. at 324 (quoting *Beatty v. Mason*, 30 Md. 409, 414 (1869)). Possession is exclusive when "the claimant . . . possess[es] the land as his own and not for another." *Id.* at 325 (quotation omitted).

Next, continuous possession occurs where the use is "with such frequency and constancy as to affect the landowner with notice that it is being exercised." *See Bay City Prop. Owners Ass'n, Inc. v. Cnty. Comm'rs of Queen Anne's Cnty.*, 263 Md. App. 385, 412 (2024) (quotation and internal marks omitted). Continuity is measured by the type of

use that an owner would maintain given the character of the contested property. *Blickenstaff*, 243 Md. at 171.

Hostility "does not necessarily import enmity or ill will," but only that the claimant's possession be unaccompanied by "recognition, express or inferable from the circumstances, of the real owner's right to the land[.]" *Breeding*, 443 Md. at 28 (quotation omitted). A good faith but mistaken belief in ownership does not defeat hostility. *See Senez*, 182 Md. App. at 339-41 ("[T]he fact that the possession was due to inadvertence, ignorance or mistake is entirely immaterial.") (quoting *Tamburo v. Miller*, 203 Md. 329, 336 (1953)) (citation omitted).

The "woodlands exception" provides a presumption of permission "where the land at issue is unimproved or otherwise in a general state of nature." *Breeding*, 443 Md. at 35. The rationale is two-fold: (1) owners of wild or unimproved land typically

> do not object to their neighbors traveling over such land, for either . . . convenience or . . . pleasure, . . . and (2) given the nature of woodlands, activities on land that is unimproved or otherwise in a general state of nature generally are not visible to the owner such that . . . she has notice and can object.

Id. at 37 (quotation and citation omitted). "[U]nimproved land is undeveloped land that lacks additions that increase the land's value or utility or enhance the land's appearance. Improved land does not necessarily have a building or a structure on it; rather, improved land is simply developed land, which is land with human-created additions . . . that make the land more useful for humans." *Id.* at 40. The woodlands exception "does not apply . . . [where] the land at issue is neither unimproved nor otherwise in a general state of nature." *Id.* at 19.

C. Analysis

The circuit court's findings on each element of adverse possession are supported by competent material evidence and are not clearly erroneous.

1. The circuit court did not clearly err in finding the Gilmans' use of the land was actual, open and notorious, and exclusive.

The record establishes a continuous, decades-long course of activity by the Gilmans across the Disputed Property. First, the 1973 planting of fir and hemlock trees was itself an act of possession; they grew over decades into a prominent and visible boundary feature. Second, the pachysandra beds, planted around 1972 or 1973 and tended for more than four decades, covered substantial portions of the Disputed Property from back to front. Mrs. Gilman testified that she had "planted over 100,000 pachysandra," and Dr. Saunders herself acknowledged observing Mrs. Gilman engaging with the pachysandra "over the years." The continual weeding, mulching, and expansion of these "intensely manicured" beds are the very types of use that this Court has recognized as constituting actual possession. *See Senez*, 182 Md. App. at 328 ("[M]aintenance of the disputed area . . . was a paradigmatic example of the type of use" establishing possession."). Third, Mr. Gilman's mowing, brush removal, leaf blowing, and progressive conversion of wooded areas to lawn began in the early 1970s and continued for nearly 50 years. Charles corroborated that his father "[n]ever stopped working that land" and that the wooded area visibly shrank as the lawn expanded "around 1993 to 1995." Dr. Saunders also testified that Mr. Gilman "was cutting" the grass "from 1997, onward," and stopped only "around 2019/2020[.]" Even the more wooded sections

showed evidence of dominion: Charles cleared brush when he was a teenager in the 1980s, and the Gilmans trimmed branches, maintained paths, and used the area for childhood recreation, including a sandbox and lacrosse net.

Dr. Saunders argues that "actual use in one area does not necessarily evidence actual use in the entire disputed area." That argument, however, cannot be carried as far as she presses it. This Court has expressly recognized that "it would be virtually impossible to require that a claimant use every square inch of the [contested] property for every moment of the statutory period to establish possession." *Peters*, 64 Md. App. at 647. The Disputed Property is a long, narrow, partially wooded suburban strip approximately 16.5 feet wide, on average. The Gilmans' activities—planting living boundary markers, maintaining ground cover and lawn, clearing brush, and using the area for family recreation—are precisely the kinds of activities an owner of such a strip would undertake. *See Blickenstaff*, 243 Md. at 168-69, 172 (holding that acts of clearing brush, cutting bean poles, felling large trees, and tending a flower bed constituted sufficient evidence of actual possession of "scrubby, brush land"); *see also Miceli*, 83 Md. App. at 556-63 (holding that acts of mowing, gathering firewood, recreational use, garbage removal, and planting ground cover constituted sufficient evidence for adverse possession of wooded land). The circuit court's detailed comparison to *Senez* was apt because the Gilmans "engaged in a course of use, maintenance, upkeep[,] and improvement . . . that one would expect . . . the owner of such land to undertake." 182 Md. App. at 328.

The same evidence establishes openness and notoriety. The row of fir and hemlock trees, the pachysandra beds, the maintained lawn, the cleared areas, the recreational features, and ultimately the fence were all plainly visible to anyone exercising reasonable diligence. Indeed, Dr. Saunders' observed each of these from the time she moved onto the property in 1997. Possession was likewise exclusive. The record contains scant evidence that Dr. Saunders or her predecessors meaningfully maintained or controlled the Disputed Property. Dr. Saunders testified that the only work she had ever done in the area was cutting the grass, which she considered "a neighborly thing to do" and initially conceded was not an assertion of ownership. The Gilmans alone treated the land as their own.

Accordingly, the circuit court's findings as to actual, open and notorious, and exclusive possession are not clearly erroneous.

2. The circuit court did not clearly err in finding the Gilmans' possession of the Disputed Property was continuous or uninterrupted for the requisite period.

We next address the circuit court's finding as to the Gilmans' continuous or uninterrupted possession of the Disputed Property. Dr. Saunders' reliance on *Tamburo* is misplaced. In *Tamburo*, the Supreme Court of Maryland held that a boathouse built beyond an older fence line, which itself encroached onto a neighboring plat, could not benefit from the fence's long possession period because the boathouse was a separate, spatial expansion of the area already possessed. 203 Md. at 337-38. There has been no comparable spatial expansion here. The Disputed Property has been bounded by the same row of fir and hemlock trees since 1973. The 2014 berm and swale, the 2018 fence,

and other improvements were not extensions of the area possessed; they were, instead, intensifications *within* it.[13] The circuit court so found:

> It's open and notorious that the [Gilmans] have worked and maintained the property from the beginning of 1973 and would have established a right to adverse possession by 1993 and that their activity since 1993 until October 2019, continued, and in fact, most likely increased concerning the development of the lower part of the property and with more of the wooded area cleared and further development of the upper part of the property.

This finding is supported by competent material evidence and is not clearly erroneous. The Gilmans' 46 years of continuous possession more than doubles the 20-year statutory threshold. Even were we to set aside the more recent improvements entirely, the court's findings of routine, yearly maintenance from 1973 through at least 1993 would alone be sufficient to establish the Gilmans' title. *See Senez*, 182 Md. App. at 328 (holding that maintenance of contested areas is the "paradigmatic example of the type of use . . . recognized as establishing actual possession"); *see Nimro v. Holden*, 222 Md. App. 16, 22 (2015) ("The [Supreme Court of Maryland] has recognized that title through adverse possession is *acquired on the expiration of the twentieth year*, a transfer that occurs *by operation of law* and without any need for a judicial determination.") (emphases added)

[13] As this Court has made clear, continuity does not require that every square foot of property receive identical treatment throughout the statutory period. Instead, possession is continuous if the possessor maintains the general character of dominion over the property as a whole. *Peters*, 64 Md. App. at 645. By 1993, 20 years after the Gilmans planted the row of fir trees, installed the pachysandra, and began mowing and cultivating the strip, the statutory period had run on the entirety of the Disputed Property. Subsequent improvements, including the berm, swale, and fence, were not new claims to previously unpossessed land but rather continuations and intensifications of the preexisting maintenance that had been ongoing for two decades.

(citing *Trs. of Broadfording Church of the Brethren v. Western Md. Ry. Co.*, 262 Md. 84 (1971)). Accordingly, the circuit court's finding as to continuity is not clearly erroneous.

3. The circuit court did not clearly err in finding the Gilmans' possession of the Disputed Property was hostile, under claim of title or owner.

Although Dr. Saunders does not directly challenge this element, we shall briefly address it under our *de novo* review. *Myers v. State*, 248 Md. App. 422, 431 (2020). Hostility "does not necessarily import enmity or ill will," rather, it requires only that the claimant's possession not be "accompanied by any recognition, express or inferable from the circumstances, of the real owner's right to the land." *Breeding*, 443 Md. at 28 (quotation omitted). The Gilmans treated the Disputed Property as their own, planted boundary trees, maintained the area for decades, and never recognized any right of the Saunders family to it. That neither party was aware of the true boundary until 2019 does not defeat hostility; a good-faith mistaken belief in ownership is "entirely immaterial." *Senez*, 182 Md. App. at 339-41 (quoting *Tamburo*, 203 Md. at 336) (citation omitted).

4. The woodlands exception does not apply.

Finally, Dr. Saunders argues that the wooded portions of the Disputed Property are subject to *Breeding*'s "woodlands exception" and that the Gilmans' use of those portions is presumed to have been permissive. She contends that "the [h]eavily [w]ooded [a]rea, [b]erm and [s]wale, and [u]nused [w]ooded [a]rea all fall between the parties[']driveways and consist of an unimproved wild area filled thickly with leaves blocking out sight in the summer." We disagree.

As stated above, the woodlands exception applies only to land that is "unimproved or otherwise in a general state of nature." *Breeding*, 443 Md. at 35. Contrary to Dr. Saunders' characterization of its oral ruling, the circuit court made no such finding that a part of the Disputed Property was unimproved.[14]

The court heard testimony from both parties that the Gilmans had placed "toward the back of the [Disputed] [P]roperty" a sandbox, then a swingset, and then a lacrosse net. Mrs. Gilman testified that, after the lacrosse net was removed, she planted pachysandra in that area, which "r[an] down from the fir trees down into the area that's generally referred to as the swale."[15] The court found, as a matter of fact, that the pachysandra could not

[14] Dr. Saunders argues that the circuit court "found that while some of the [Disputed Property] is cleared, other areas are mostly wooded and undeveloped." The circuit court's ruling states:

> [T]here was a stipulation [of exhibits] which would depict a plat filed among the land records of Baltimore County for a so-called area called Caves Park which shows the respective lots at issue here, Lots 12 and 13. . . . The area in question is, essentially, a . . . heavily wooded area with individual homes that are built on the wooded properties resulting *in a clearance of certain areas of the property for the construction of the homes of the parties in this case*. The other areas are, essentially, undeveloped, they are not cleared and consist of mostly wooded areas of what's been referred to in the trial as deciduous trees. . . .

We read the court's statement to describe the portions of Caves Park which do not have homes on them as undeveloped. Thus, the court did not make a finding that any part of Lots 12 and 13 was undeveloped.

[15] We note, for completeness, that Mrs. Gilman testified that part of the Disputed Property constituted a "thick mass of trees and bushes." Nevertheless, the Gilmans were not required to occupy "every square inch of the [contested] property for every moment of the statutory period" and needed only comply with "the type of uses for which it is suitable." *Peters*, 64 Md. App. at 647; *see also Porter v. Schaeffer*, 126 Md. App. 237,

expand without proper care, evidencing maintenance by the Gilmans in the back party of the Disputed Property. Moreover, testimony established that the wooded portion progressively shrank as the Gilmans expanded grass and ground cover, and that the Gilmans later installed a berm and swale in the wooded portion. Dr. Saunders herself testified that, starting around 1997, the Gilmans gradually reduced the thickness of the wooded area and improved it with grass and pachysandra.

This activity of clearing and planting by the Gilmans is precisely the type of "addition[] that increase[s] the land's value or utility or enhance[s] the land's appearance." *Breeding*, 443 Md. at 40. Therefore, by Dr. Saunders' admission, the wooded area was not "otherwise in a general state of nature" as it was consistently subject to the Gilmans' improvement and maintenance. Any presumption of permission was, in any event, rebutted by Dr. Saunders' own admission of notice.

Accordingly, we agree with the circuit court's finding that the record is replete with evidence of at least 20 years of continued and increasing improvement and

277 (1999) ("We are mindful that adverse possession claims depend in part on the nature of the land in question. . . . [A]cts sufficient to demonstrate possession of wild, undeveloped forest may fall short of the activity needed to establish possession of developed property.").

The Gilmans' history of land maintenance in the narrow strip of Disputed Property is distinguishable from Maryland case law evincing a lack of sufficient development to establish adverse possession. *See, e.g.*, *Peters*, 64 Md. App. at 648 (holding no actual use where the claimant "merely allowed '[a] large part of the disputed [land] . . . to grow wild [because he] desire[d] the wild nature of the ground as an animal sanctuary. . . .'") (fourth alteration added); *see also Porter*, 126 Md. App. at 277-78 (affirming denial of adverse possession claim where the disputed property was "a tract of over 200 acres[,]" and the alleged use was "confined to a small five-acre area, only part of which was located in the disputed territory").

maintenance of the Disputed Property, through the wooded area. We hold that the court did not err in determining that the use of the Disputed Property was continuous for the requisite statutory period.

In short, the circuit court's findings on each element of adverse possession are supported by competent material evidence and are thus not clearly erroneous. The court's legal conclusion that the Gilmans had adversely possessed the Disputed Property is therefore correct as a matter of law.

IV. THE CIRCUIT COURT DID NOT ERR IN DECLINING TO APPLY THE DOCTRINE OF UNCLEAN HANDS.

A. Parties' Contentions

Dr. Saunders argues that equity should bar the Gilmans' claim because they "owned the company that built [Lot 13] . . . and conveyed the same to the Saunders family for valuable consideration," then "t[ook] the Saunders'[] money for [Lot 13] in one month, . . . [and] adversely possess[ed] part of that land the next."

The Gilmans contend that Dr. Saunders "had no evidence to support [an] alleged scheme" on the Gilmans' part to "obtain the [D]isputed [P]roperty[] . . . from the beginning of . . . their ownership." The Gilmans contend that, in any event, equitable defenses such as unclean hands cannot be invoked against an adverse possession claim under Maryland law.[16]

[16] At oral argument before this Court, the Gilmans' counsel contended that "there is no precedent in the State of Maryland [that] state[s] that the unclean hands doctrine would unravel the adverse possession."

B. Legal Framework

Maryland law has long recognized the maxim that "he who comes into equity must come with clean hands." *Hlista v. Altevogt*, 239 Md. 43, 48 (1965). The doctrine applies only where the alleged inequitable conduct is related to the relief sought, *id.*, and it is intended "to protect the courts from having to endorse or reward inequitable conduct." *Adams v. Manown*, 328 Md. 463, 474-75 (1992).

The Supreme Court of Maryland, however, has expressly foreclosed the use of equitable defenses against a properly established adverse possession claim. The Court has explained that arguments "based on equitable principles[] ignore[] the fact that acts constituting adverse possession are, by definition, 'inequitable,' since they include the possession of land in defiance of the rights of the legal owners for the prescriptive period." *Mauck v. Bailey*, 247 Md. 434, 446 (1967). The doctrine rests "on the policy that after 20 years, no one can complain of the 'inequitable' and indeed, formally illegal possession." *Id.* Adverse possession turns on the claimant's objective conduct, rather than subjective motive. *See Yourik*, 174 Md. App. at 428-29 (recognizing that the claim "rests on the claimant's demonstrated 'intention to appropriate and hold the land as owner . . . to the exclusion, rightfully or *wrongfully*, of everyone else'") (emphasis added) (quotation omitted); *see also Nimro*, 222 Md. App. at 27 (an action to quiet title "predicated on adverse possession . . . rests on title arising from the [claimant's] (wrongful) conduct") (citation omitted).

C. Analysis

The circuit court's decision to disregard Dr. Saunders' unclean hands defense is correct for two, independently sufficient reasons.

First, the circuit court's finding that there was "no credible evidence to support that . . . there was a scheme on the part of the Gilmans" is a factual finding reviewed for clear error. "[A]n appellate court . . . will give due regard to the opportunity of the trial court to judge the credibility of the witnesses." Md. Rule 8-131(c). *See Porter*, 126 Md. App. at 259. The court credited both parties' testimony that they did not know the true boundary line until the 2019 survey and "reject[ed] the theory" that Mr. Gilman's land-records filings established the Gilmans' knowledge of the true line. Those credibility determinations are entitled to deference. Md. Rule 8-131(c). Dr. Saunders has identified no record evidence that would render them clearly erroneous.

Second, *Mauck* forecloses the application of unclean hands to a properly established adverse possession claim. 247 Md. at 446. Adverse possession is, by its nature, a doctrine that rewards conduct that, viewed in isolation, would be wrong. *See Yourik*, 174 Md. App. at 428 (explaining that an adverse possession claim can arise from "wrongful[] conduct"); *see also Nimro*, 222 Md. App. at 27 (same). The General Assembly and Maryland courts have nonetheless concluded that "after 20 years, no one can complain of the 'inequitable' . . . possession." *Mauck*, 247 Md. at 446. To allow an unclean hands defense to override that long-settled rule would essentially write the doctrine of adverse possession out of Maryland law.

Notwithstanding this holding, we are troubled by the notion that a seller of property with seemingly constructive knowledge of the land boundaries may sell land to a buyer and then immediately begin adversely possessing the land just sold. The adverse possession doctrine has been recognized in other jurisdictions as the legalized "theft" of land. *See, e.g.*, *Golobe v. Mielnicki*, 44 N.Y.3d 86, 104 (2025) (Rivera, J., dissenting) ("Adverse possession has been 'called a means of obtaining title by theft'" and "goes against the general policy in favor of voluntary transactions[.]") (quotations omitted); *In re Haynes*, 283 B.R. 147, 151 (Bankr. S.D.N.Y. 2002) ("Adverse possession has been looked upon as being a form of legalized theft.") (citation omitted); *Fitzpatrick v. Palmer*, 186 Ohio App.3d 80, 88 (1997) (noting sources contending that adverse possession is a "'relic[] of the past' that reward[s] the 'theft of land'") (citation omitted). A former Chief Justice of the Washington Supreme Court opined:

> [I]t is time to rethink the doctrine of adverse possession. Many of the beneficial purposes the doctrine is said to serve do not justify the doctrine in modern times. Moreover, the doctrine's basic premise is legalization of wrongful acquisition of land by "theft," conduct that in our time we should discourage, notwithstanding the possibility of putting land to a higher or better use. The doctrine also creates uncertainty of ownership, lying as it does outside documents in writing and recording statutes.

Gorman v. City of Woodinville, 175 Wash. 2d 68, 75 (2012) (Madsen, C.J., concurring). *Mauck*, however, is clear in its instruction to bar equitable remedies in adverse possession claims. If this issue were a matter of first impression such that we were not bound by *Mauck*'s precedential value, this Court would reverse.

CONCLUSION

For the above reasons, we hold that the circuit court correctly denied Dr. Saunders' motion to dismiss the Gilmans' adverse possession counterclaim and did not abuse its discretion in admitting Defendants' Exhibits 10C.1 and 10C.2. We further hold that the court did not err in finding that the Gilmans had adversely possessed the Disputed Property for the requisite statutory period and in declining to apply the doctrine of unclean hands.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.