

CALIFORNIA COURT OF APPEAL, SECOND DISTRICT, DIVISION THREE

Kathleen Rice v. James C. Rice

93 Cal. App. 2d 646 (Cal. Ct. App. 1949) · No. Civ. No. 16852 · Decided September 19, 1949

SUMMARY

The California Court of Appeals affirmed an order vacating an interlocutory divorce decree and permitting an amended complaint. The court held that the defendant's failure to disclose a prior conveyance of the disputed real property to a third party constituted fraud upon the court and justified relief under the court's inherent authority and California Code of Civil Procedure section 473.

CASE DETAILS

COURT	California Court of Appeal, Second District, Division Three
WRITING FOR THE COURT	Wood, J.; Shinn, P. J.; Vallee, J.
JURISDICTION	California
DECIDED	September 19, 1949
DOCKET	Civ. No. 16852
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from an order granting plaintiff's motion to vacate an interlocutory decree of divorce and to file an amended complaint.
STANDARD OF REVIEW	The opinion does not expressly state a formal standard of review; it reviews the trial court's order granting relief from the interlocutory decree for fraud upon the court.
PRECEDENTIAL VALUE	published California Court of Appeal opinion
PARTIES	James C. Rice v. Kathleen Rice

TOPICS

- family law procedure
- divorce
- community property
- civil procedure
- remedies

PRACTICE AREAS

- Family law
- Civil procedure
- Real property
- Remedies

QUESTIONS PRESENTED

1. Whether defendant's failure to disclose his conveyance of the disputed property to a third party constituted fraud upon the court.
2. Whether a judgment obtained through fraud upon the court may be vacated by motion under the court's inherent power and Code of Civil Procedure section 473.
3. Whether plaintiff's alleged knowledge of the recorded transfer and the parties' respective duties to disclose the transfer precluded relief.

HOLDINGS

1. Defendant's conduct in failing to disclose during the divorce trial that he had conveyed the property to Nelda Davis constituted fraud upon the court because it led the trial court to believe that title was in a condition permitting an effective apportionment of the property.
2. A judgment obtained through fraud upon the court may be attacked by motion, including a motion brought under Code of Civil Procedure section 473.
3. Plaintiff's alleged knowledge that record title was held by Davis did not preclude relief because the circumstances did not establish that plaintiff knew the transfer was valid or that defendant intended to rely on it as a defense.

KEY QUOTATIONS

“Good faith on the part of the defendant required that he inform the court that he had conveyed the property to Davis.” (651)

“Under the circumstances here, the conduct of defendant constituted a fraud upon the court.” (651)

“The court has inherent power to set aside a judgment obtained through fraud perpetrated upon it.” (651)

“If defendant regarded the Davis deed as genuine and effectual, it was his duty to inform the court regarding it.” (652)

FACTUAL BACKGROUND

The parties' disputed real property had been acquired during their marriage, and the divorce trial focused on whether it was separate or community property. Before the divorce action, defendant had purportedly conveyed the property to Nelda Davis, who executed a \$5,000 note and trust deed in defendant's favor, but defendant did not disclose that transaction during the divorce trial. The trial court nevertheless apportioned the property as community property and entered an interlocutory decree. Plaintiff later learned of the conveyance and moved to vacate the decree, asserting that defendant's nondisclosure had misled the court.

PROCEDURAL HISTORY

The trial court entered an interlocutory divorce decree determining that one-half of the disputed real property was community property and apportioning the interests between the parties. Plaintiff later moved under Code of Civil Procedure section 473 and the court's inherent power to vacate the decree, asserting that defendant had concealed a prior conveyance of the property to a third party. The trial court granted the motion, and defendant appealed.

DISPOSITION

affirmed

CASES CITED

- McGuinness v. Superior Court, 196 Cal. 222, 231, 237 P. 42 (1925)
- Cowan v. Cowan, 72 Cal. App. 2d 868, 871, 166 P.2d 21 (1946)
- Difani v. Riverside County Oil Co., 201 Cal. 210, 216, 256 P. 210 (1927)
- In re Yoder, 199 Cal. 699, 701, 251 P. 205 (1927)
- Security-First Nat. Bank v. Hauer, 47 Cal. App. 2d 302, 307, 117 P.2d 952 (1941)
- Tomb v. Tomb, 120 Cal. App. 438, 441, 7 P.2d 1104 (1932)

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