

SUPREME COURT OF ILLINOIS

Gruenewald v. Neu

215 Ill. 132 (Ill. 1905) · Decided April 17, 1905

SUMMARY

The Illinois Supreme Court held that a will granting a husband power to use and sell property, but directing that any remaining property be divided upon his death, created a life estate with a remainder rather than an absolute fee simple. The court construed “legal representatives” to include the deceased husband's devisee, who was also his executrix, rather than his heir-at-law. It affirmed the partition decree and held that the purchaser at the judicial sale obtained good title, with the plaintiff estopped from challenging the sale after accepting its proceeds.

CASE DETAILS

COURT	Supreme Court of Illinois
WRITING FOR THE COURT	Justice Magruder
JURISDICTION	Illinois
DECIDED	April 17, 1905
DISPOSITION	affirmed
PROCEDURAL POSTURE	Mary Gruenewald brought a partition action against Peter Neu, the purchaser at a prior partition sale, claiming an undivided one-half interest acquired from John Fiedler. Neu filed an answer and cross-bill seeking cancellation of Fiedler's deed as a cloud on title and an injunction. The Illinois Supreme Court reviewed the circuit court's decree on writ of error.
STANDARD OF REVIEW	The record presented only questions of law because no evidence was taken.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Mary Gruenewald v. Peter Neu

TOPICS

- partition
- title disputes
- deeds
- real estate
- probate

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Theresia Thiem's will gave John Thiem a fee simple estate or only a life estate with a remainder in property remaining undisposed of at his death.
2. Whether the term "legal representatives" in Theresia Thiem's will included Mary Gruenewald, as John Thiem's executrix and residuary devisee, rather than John Fiedler, as John's heir-at-law.
3. Whether Gruenewald was estopped from asserting an interest inconsistent with the prior partition sale after accepting and retaining the corresponding sale proceeds.
4. Whether the deed from John Fiedler to Gruenewald was properly canceled as a cloud on Neu's title.

HOLDINGS

1. Although the first sentence of the devise could independently create a fee simple estate, the later provision requiring division of property remaining at John's death reduced his interest to a life estate with power to dispose of the fee and created a remainder in the designated beneficiaries.
2. Mary Gruenewald qualified as a legal representative of John Thiem because she was both the executrix of his will and his residuary devisee; John Fiedler, although John's heir-at-law, took no interest in the property because he was not a devisee under John's will.
3. Gruenewald was estopped from claiming that Neu's judicial purchase covered only part of the property because she accepted and retained the proceeds attributable to the interest she later claimed to have acquired from Fiedler.

KEY QUOTATIONS

"The provision, requiring that, at the death of the husband, all the real estate then remaining should be divided between the persons named is inconsistent with the vesting of an absolute fee simple estate in John Thiem." (215 Ill. 132)

"A court of equity will not permit her to claim the sale to be invalid as against the defendant in error, when she herself reaped the benefit of it by accepting the money paid by defendant in error and realized from such sale." (215 Ill. 132)

FACTUAL BACKGROUND

Theresia Thiem's will devised the residue of her real and personal property to her husband, John Thiem, with authority to sell, but directed that property remaining at his death be divided between her own legal heirs and representatives and her husband's legal representatives. The disputed lots remained unsold when John died; his will gave the residue of his property to Mary Gruenewald and appointed her executrix, while John Fiedler was his sole heir-at-law. After a prior partition decree awarded Gruenewald three-fourths of the property and she accepted three-fourths of the sale proceeds from Neu's purchase, she bought Fiedler's deed and sought to assert an additional one-half interest.

PROCEDURAL HISTORY

Anna Keim previously obtained a partition decree determining that Keim owned one-fourth of the property and Gruenewald owned three-fourths, followed by a judicial sale to Neu. Gruenewald accepted three-fourths of the sale proceeds and later purchased a deed from Fiedler, John Thiem's heir, asserting that Fiedler owned an additional one-half interest. The circuit court dismissed Gruenewald's bill, granted Neu's cross-bill, canceled Fiedler's deed, and enjoined Gruenewald from asserting an interest. The Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Kaufman v. Breckinridge, 117 Ill. 305
- In re Estate of Cashman, 134 Ill. 88
- Wolfer v. Hemmer, 144 Ill. 554
- Saeger v. Bode, 181 Ill. 514
- Becker v. Becker, 206 Ill. 53
- Giles v. Anslow, 128 Ill. 187
- Dickson v. New York Biscuit Co., 211 Ill. 468
- Metzen v. Schopp, 202 Ill. 275
- Smith v. Kimbell, 153 Ill. 368
- Turner v. Hause, 199 Ill. 464
- Bowman v. Long, 89 Ill. 19
- Davis v. Davis, 26 Cal. 37
- Grand Gulf Railroad Co. v. Bryan, 8 Smed. & Mar. 275
- Stook's Appeal, 20 Pa. St. 349
- Duncan v. Walker, 1 Yeates 216
- Bissell v. Beckwith, 32 Conn. 509
- Joss v. Mohn, 55 N.J.L. 407
- Jeffers v. Jeffers, 139 Ill. 368
- Borders v. Hodges, 154 Ill. 498