

SUPREME COURT OF COLORADO

Taylor v. Canterbury

92 P.3d 961 (Colo. 2004) · No. No. 03SC294 · Decided June 28, 2004

SUMMARY

The Colorado Supreme Court held that a joint tenant may unilaterally sever a joint tenancy by conveying the property to himself or herself as a tenant in common, without using an intermediary strawman. The court concluded that the right of survivorship is an expectancy rather than an irrevocably vested right and that Colorado law focuses on the parties' intent rather than the traditional four unities. The court reversed the court of appeals and remanded for further proceedings, while Justice Coats dissented.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Kourlis; Justice Coats
JURISDICTION	Colorado
DECIDED	June 28, 2004
DOCKET	No. 03SC294
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Petitioner sought review of a Colorado Court of Appeals decision affirming a trial court judgment that a joint tenant's unilateral deed conveying property back to himself and the other joint tenant as tenants in common did not sever the joint tenancy.
STANDARD OF REVIEW	The court reviewed the legal validity and effect of the recorded conveyance; the material facts were undisputed and stipulated.
PRECEDENTIAL VALUE	Published, precedential en banc opinion
PARTIES	Noah Taylor, as personal representative of the Estate of Terrell Taylor v. Lucy I. Canterbury

TOPICS

- real estate
- deeds
- title disputes
- quiet title
- probate

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a joint tenant may unilaterally sever a joint tenancy by conveying the property back to himself or herself as a tenant in common with the other joint tenant.
2. Whether Colorado law requires a joint tenant to use an intermediary or 'strawman' transaction to sever a joint tenancy while retaining an ownership interest.

HOLDINGS

1. A joint tenant may unilaterally sever a joint tenancy by conveying the property to himself or herself as a tenant in common, thereby eliminating the survivorship feature and retaining an undivided interest as a tenant in common.
2. Although each joint tenant has a vested ownership interest in the jointly held property, the right of survivorship is not irrevocably fixed upon creation of the joint tenancy and may be unilaterally eliminated before the death of a joint tenant.

KEY QUOTATIONS

“We hold that a joint tenant who unilaterally conveys his interest in real property back to himself, with the intent of creating a tenancy in common, effectively severs the joint tenancy as to that joint tenant and the remaining joint tenant or tenants.” (962-963)

“Rather, a joint tenant may unilaterally eliminate the survivorship element of the ownership rights, and by doing so, eliminate his own survivorship rights as well.” (965-966)

“We conclude, in light of Colorado's statutory and precedential approach to joint tenancy, that a joint tenant may sever a joint tenancy by conveying the property to himself or herself as a tenant in common, without the need for an intermediary strawman.” (967-968)

FACTUAL BACKGROUND

Terrell Taylor owned a 666-acre ranch in Fremont County, Colorado. In 1991, he conveyed the property to himself and Lucy I. Canterbury as joint tenants. In 1997, Taylor executed and recorded a quitclaim deed expressly stating his intent to sever the joint tenancy and create a tenancy in common. Taylor died in 1999, after which Canterbury sought quiet title as surviving joint tenant.

PROCEDURAL HISTORY

Terrell Taylor conveyed a ranch to himself and Lucy Canterbury as joint tenants, then executed and recorded a quitclaim deed purporting to convey the property back to himself and Canterbury as tenants in common. After Taylor's death, Canterbury brought an action to quiet title as surviving joint tenant and sought to set aside the later conveyance and obtain damages. Following a bench trial, the trial court ruled that the survivorship interest was fixed and vested and that the deed did not sever the joint tenancy. The Colorado Court of Appeals affirmed. The Colorado Supreme Court granted certiorari, reversed, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was returned to the Colorado Court of Appeals for remand to the trial court for further proceedings consistent with the opinion, including recognition that Taylor retained an undivided one-half interest as a tenant in common at his death.

CASES CITED

- United States v. Craft, 535 U.S. 274, 279-80, 122 S. Ct. 1414, 152 L. Ed. 2d 437 (2002)
- Bradley v. Mann, 34 Colo. App. 135, 525 P.2d 492, 493 (1974)
- Smith v. Greenburg, 121 Colo. 417, 218 P.2d 514, 519 (1950)
- Tabor v. Sullivan, 12 Colo. 136, 20 P. 437, 441 (1889)
- Riddle v. Harmon, 102 Cal. App. 3d 524, 162 Cal. Rptr. 530, 531, 534 (1980)
- In re Kwatkowski's Estate, 94 Colo. 222, 29 P.2d 639, 640 (1934)
- In re Estate of Lee v. Graber, 170 Colo. 419, 462 P.2d 492, 493-94 (1969)
- First National Bank of Southglenn v. Energy Fuels Corp., 200 Colo. 540, 618 P.2d 1115, 1118-19 (1980)
- Tenhet v. Boswell, 18 Cal. 3d 150, 133 Cal. Rptr. 10, 554 P.2d 330, 334 (1976)
- Carmack v. Place, 188 Colo. 303, 535 P.2d 197, 198 (1975)
- Mann v. Bradley, 188 Colo. 392, 535 P.2d 213, 214-15 (1975)
- Mangus v. Miller, 35 Colo. App. 115, 532 P.2d 368, 369 (1974)
- Alden v. Alden, 155 Colo. 51, 393 P.2d 5, 6 (1964)
- Hendrickson v. Minneapolis Federal Savings & Loan Ass'n, 281 Minn. 462, 161 N.W.2d 688, 689 (1968)
- Minonk State Bank v. Grassman, 95 Ill. 2d 392, 69 Ill. Dec. 387, 447 N.E.2d 822, 825 (1983)
- In re Estate of Knickerbocker, 912 P.2d 969, 976 (Utah 1996)
- Krause v. Crossley, 202 Neb. 806, 277 N.W.2d 242, 246 (1979)
- Danielson v. Zoning Board of Adjustment, 807 P.2d 541, 543 n. 4 (Colo. 1991)
- Canterbury v. Taylor, 74 P.3d 457, 459 (Colo. App. 2003)