

COURT OF APPEALS OF TEXAS, FOURTH DISTRICT, SAN ANTONIO

Nina Kellner as Trustee for the Oscar Kellner and Nina Kellner
Revocable Living Trust, and Kirk Kellner v. Lloyd Kellner

419 S.W.3d 541 (Tex. App.—San Antonio 2013) · No. 04-12-00344-CV · Decided November 13, 2013

SUMMARY

The Fourth Court of Appeals of Texas reversed summary judgments concerning deeds conveying trust property to the estate of Etta Lee Kellner and the ownership of property held in her trust. The court held that the trust terminated upon Etta’s death and that title to the trust property automatically vested in the beneficiaries of her will, subject to any estate administration. Because the will was admitted to probate as a muniment of title and no administration was necessary, the court rendered judgment accordingly.

CASE DETAILS

COURT	Court of Appeals of Texas, Fourth District, San Antonio
WRITING FOR THE COURT	Catherine Stone, Chief Justice; Sandee Bryan Marion, Justice; Patricia O. Alvarez, Justice
JURISDICTION	Texas
DECIDED	November 13, 2013
DOCKET	04-12-00344-CV
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Lloyd Kellner sued Nina Kellner, Kirk Kellner, and Trent Kellner concerning title to real property held by the Etta Lee Kellner Management Trust. The trial court granted Lloyd's partial traditional summary judgment declaring two trust-to-estate deeds void and later granted a second summary judgment declaring that Lloyd owned a one-half fee-simple interest in specified property and in all remaining trust property. The trial court merged the rulings into a final judgment, and Nina and Kirk appealed.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. For traditional summary judgment, the court considers the evidence in the light most favorable to the respondent and determines whether the movant established that no genuine issue of material fact existed and that it was entitled to judgment as a matter of law. No-evidence summary judgment is reviewed under the legal-sufficiency standard applicable to a directed

verdict, and is improper if the respondent presents more than a scintilla of probative evidence raising a genuine issue of material fact. When both parties move for summary judgment, the appellate court reviews the evidence presented by both sides and renders the judgment the trial court should have rendered.

PRECEDENTIAL VALUE

published opinion

PARTIES

Nina Kellner as Trustee for the Oscar Kellner and Nina Kellner Revocable Living Trust, Kirk Kellner v. Lloyd Kellner

TOPICS

trusts

probate procedure

title disputes

appellate procedure

standard of review

PRACTICE AREAS

trusts

probate

real estate

appellate procedure

summary judgment

QUESTIONS PRESENTED

1. Whether Trent Kellner's severance after filing bankruptcy and absence from the case deprived the trial court of jurisdiction because he was an indispensable party.
2. Whether title to property held in the Etta Lee Kellner Management Trust automatically vested in the beneficiaries of Etta's will when Etta died and the trust terminated.
3. Whether the trial court properly granted summary judgment declaring that Lloyd Kellner owned a one-half fee-simple interest in the trust property.

HOLDINGS

1. The absence of a person whose interests may be affected by a judgment is not ordinarily a jurisdictional defect, and this was not the rare case in which the appellate court should conclude that the trial court lacked jurisdiction based on Trent's absence, particularly given the agreed severance.
2. When a trust terminates upon the settlor's death and the trust instrument directs distribution to the decedent's estate, the trust property automatically vests in the estate; when the decedent leaves a will, title then immediately vests in the beneficiaries of that will, subject to any subsequent estate administration.

KEY QUOTATIONS

"Section 112.052 expressly states, "The continued exercise of the trustee's powers after an event of termination does not affect the vested rights of the beneficiaries of the trust." (at 547)

"Based on the foregoing, we hold that title to the trust property vested automatically in the beneficiaries of Etta's will, subject to any subsequent estate administration." (at 548)

“The trial court’s judgment is reversed and judgment is rendered that title to the property held in the Etta Lee Kellner Management Trust at the time of Etta Lee Kellner’s death automatically vested in the beneficiaries of Etta’s will.” (at 549)

FACTUAL BACKGROUND

Etta Lee Kellner created the Etta Lee Kellner Management Trust in 1990 and conveyed real property in Karnes and Atascosa Counties to it. The trust agreement provided that, upon Etta's death and payment of specified expenses and taxes, the trust would terminate and the remaining trust estate would be distributed in fee simple to the executor of Etta's estate for disposition under her will. Etta died in 1994, and her will and codicils were admitted to probate as a muniment of title; on the same day, co-trustee Oscar Kellner executed two deeds conveying trust property to Etta's estate. After Oscar's death, Lloyd challenged the deeds and claimed ownership of one-half of the trust property.

PROCEDURAL HISTORY

The trial court granted Lloyd's first motion for partial summary judgment and denied the appellants' no-evidence motion concerning removal of cloud on title. After Trent filed bankruptcy, the trial court severed Lloyd's claims against Trent. The court then granted Lloyd's second summary judgment motion and entered a final judgment combining both summary-judgment rulings. The court of appeals held that Trent's absence did not deprive the trial court of jurisdiction, reversed the judgment, and rendered judgment that title to the trust property automatically vested in the beneficiaries of Etta's will.

DISPOSITION

reversed_and_remanded

CASES CITED

- Provident Life & Acc. Ins. Co. v. Knott, 128 S.W.3d 211, 215 (Tex. 2003)
- Nixon v. Mr. Prop. Mgmt. Co., 690 S.W.2d 546, 548-49 (Tex. 1985)
- King Ranch, Inc. v. Chapman, 118 S.W.3d 742, 750-51 (Tex. 2003)
- Mann Frankfort Stein & Lipp Advisors, Inc. v. Fielding, 289 S.W.3d 844, 848 (Tex. 2009)
- Brooks v. Northglen Ass'n, 141 S.W.3d 158, 162-63 (Tex. 2004)
- In re Estate of Bean, 120 S.W.3d 914, 920 (Tex. App.—Texarkana 2003, pet. denied)
- Schearer v. Holley, 952 S.W.2d 74, 78 (Tex. App.—San Antonio 1997, no writ)
- Sorrel v. Sorrel, 1 S.W.3d 867, 871 (Tex. App.—Corpus Christi 1999, no pet.)