

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Barbara Bell v. Judy Gill

No. 14-0930 (Putnam County 11-C-118) · No. No. 14-0930 · Decided June 12, 2015

SUMMARY

The West Virginia Supreme Court of Appeals affirmed summary judgment for Judy Gill in a dispute over joint bank accounts with rights of survivorship held by the decedent and several family members. The court held that Barbara Bell presented insufficient evidence of mistake, fraud, undue influence, or constructive fraud to create a genuine issue for trial. The court also affirmed the award of \$7,500 to Bell for her share of certain certificates of deposit.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Margaret L. Workman; Justice Robin Jean Davis; Justice Brent D. Benjamin; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	June 12, 2015
DOCKET	No. 14-0930
DISPOSITION	affirmed
PROCEDURAL POSTURE	Barbara Bell appealed the Circuit Court of Putnam County's order granting summary judgment to Judy Gill and dismissing Bell's claims concerning three joint bank accounts with rights of survivorship, while awarding Bell \$7,500 for her share of certain certificates of deposit.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The court at the summary-judgment stage determines whether a genuine issue for trial exists and does not weigh evidence or determine the truth of the matter.
PRECEDENTIAL VALUE	Nonprecedential memorandum decision
PARTIES	Barbara Bell v. Judy Gill, executrix

TOPICS

- summary judgment
- probate
- undue influence
- intentional interference with expectancy
- appellate procedure

PRACTICE AREAS

Probate and estate litigation

Civil procedure

Torts

QUESTIONS PRESENTED

1. Whether the evidence created a genuine issue of material fact that the decedent was mistaken about, or was subjected to fraud or undue influence regarding, the joint bank accounts with rights of survivorship.
2. Whether a confidential or fiduciary relationship, without evidence that the relationship was used to direct property into a joint tenancy, creates a presumption of constructive fraud.
3. Whether summary judgment was proper on Bell's claims concerning the three joint bank accounts.

HOLDINGS

1. Summary judgment was proper because the record contained no genuine issue of material fact showing that the decedent was mistaken, incapacitated, fraudulently induced, or unduly influenced when she established the accounts as joint accounts with rights of survivorship.
2. The existence of a fiduciary or confidential relationship alone does not create a presumption of constructive fraud; the party invoking constructive fraud must also show that the fiduciary used the relationship to direct property into the joint tenancy.

KEY QUOTATIONS

“A circuit court’s entry of summary judgment is reviewed de novo.” (at 1)

“The circuit court’s function at the summary judgment stage is not to weigh the evidence and determine the truth of the matter, but is to determine whether there is a genuine issue for trial.” (at 1)

“The existence of a fiduciary or confidential relationship does not, in and of itself, create this presumption.” (at 3)

FACTUAL BACKGROUND

The decedent, Mildred Vincent Turley, executed a will leaving her assets equally to her three children and later executed a codicil naming Catherine Elaine Jackson as co-executrix. In 2008, while the decedent was mentally competent, she established three bank accounts as joint accounts with rights of survivorship, naming Gill and other family members as co-owners. Bell alleged that Gill obtained the account interests through fraud, undue influence, breach of fiduciary duty, and constructive fraud, but the record contained no evidence that Gill caused or directed the changes in account title.

PROCEDURAL HISTORY

Bell sued Gill on claims including fraud, undue influence, breach of fiduciary duty, lack of testamentary capacity, tortious interference with an expected testamentary bequest, and requests for damages and injunctive relief. Gill moved for summary judgment. After a hearing, the circuit court found no genuine issue of material fact, awarded Bell \$7,500 for her share of two certificates of deposit, and dismissed the remaining claims. The Supreme Court of Appeals of West Virginia affirmed.

DISPOSITION

affirmed

CASES CITED

- Painter v. Peavy, 192 W. Va. 189, 451 S.E.2d 755 (1994)
- Wilkinson v. Searls, 155 W. Va. 475, 184 S.E.2d 735 (1971)
- Webb v. Williams, 188 W. Va. 7, 422 S.E.2d 484 (1992)
- Barnhart v. Redd, 196 W. Va. 142, 469 S.E.2d 1 (1996)
- Smith v. Smith, 168 W. Va. 511, 285 S.E.2d 145 (1981)
- Nugen v. Simmons, 200 W. Va. 253, 489 S.E.2d 7 (1997)

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