

SUPREME COURT OF SOUTH DAKOTA

Leonard Novak v. Edward S. Novak

2007 SD 108 (S.D. 2007) · No. No. 24348 · Decided October 24, 2007

SUMMARY

The Supreme Court of South Dakota affirmed summary judgment awarding title to 640 acres of real property to Edward Novak under conditions contained in his father's will. The court held that prior probate findings barred relitigation of certain conditions and that any dispute over payments to the decedent was not material to Edward's title. The court also upheld attorney fees awarded under South Dakota's discovery-sanctions provisions for failure to admit matters later proven.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Meierhenry, Justice; Gilbertson, Chief Justice; Sabers, Justice; Konenkamp, Justice; Zinter, Justice
JURISDICTION	South Dakota
DECIDED	October 24, 2007
DOCKET	No. 24348
DISPOSITION	affirmed
PROCEDURAL POSTURE	Leonard Novak, as personal representative of Lillian Novak's estate, brought an action for declaratory judgment to determine title to 640 acres of real property. The parties filed cross-motions for summary judgment, and Edward Novak moved for attorney fees and costs based on Leonard's discovery denials. The circuit court granted summary judgment and attorney fees to Edward; Leonard appealed.
STANDARD OF REVIEW	Summary judgment is reviewed de novo to determine whether the moving party demonstrated the absence of any genuine issue of material fact and entitlement to judgment as a matter of law, viewing facts and favorable inferences in favor of the nonmoving party. Attorney-fee awards under SDCL 15-6-37 are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Leonard Novak, Personal Representative of the Estate of Lillian Novak v. Edward S. Novak

TOPICS

probate title disputes summary judgment attorney fees appellate procedure

PRACTICE AREAS

probate real estate civil procedure appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court properly granted Edward summary judgment on Leonard's claim that Edward failed to satisfy the conditions of Ernest's will and should be divested of title to the 640 acres.
2. Whether the circuit court abused its discretion by awarding Edward attorney fees and expenses under SDCL 15-6-37(c) for Leonard's failure to admit matters later proved by Edward.

HOLDINGS

1. No. The prior probate determination that Lillian validly waived her residence option was conclusive, and the language of Ernest's will made Edward's prior one-time payments to Leonard and his family sufficient to establish his right to retain title. Any dispute over annual payments to Lillian was not material to title because Edward had already made the required one-time payments.
2. Yes. The circuit court did not abuse its discretion by awarding Edward attorney fees and expenses after Leonard denied fifty-seven requests for admission and Edward proved all fifty-seven matters. Discovery sanctions under SDCL 15-6-37(c) may be awarded in a summary-judgment proceeding; a trial is not required.

KEY QUOTATIONS

"The plain language of the alternative devise gave Lillian a life estate if Edward failed to make the payments required by the initial conditions." (741 N.W.2d at 226)

"Edward's right to the property did not hinge on making all of the payments to Lillian." (741 N.W.2d at 227)

"A plain reading of SDCL 15-6-37 indicates that no trial is required." (741 N.W.2d at 228)

FACTUAL BACKGROUND

Ernest Novak's will devised 640 acres to his son Edward subject to three conditions: one-time payments totaling \$16,000 to Leonard and his family, allowing Ernest's widow Lillian to live in the family residence during her lifetime, and annual \$2,000 payments to Lillian. During Ernest's probate, the court found that Edward had made the required one-time payments and that Lillian had waived her residence option. After Lillian died, Leonard alleged that Edward had failed to make all annual payments and therefore had lost title or owed a second set of one-time payments. The undisputed evidence established that Edward had made the one-time payments within the required period.

PROCEDURAL HISTORY

The property had been devised to Edward under Ernest Novak's will subject to specified conditions. During probate of Ernest's estate, the circuit court determined that Edward had satisfied the one-time payments to Leonard and his family and that Lillian had waived her right to occupy the family residence. In the later declaratory-judgment proceeding, the circuit court concluded that any remaining dispute over payments to Lillian was immaterial to title, granted Edward summary judgment, and awarded attorney fees under SDCL 15-6-37(c). The Supreme Court of South Dakota affirmed.

DISPOSITION

affirmed

CASES CITED

- Kling v. Stern, 2007 SD 51, ¶ 5, 733 N.W.2d 615, 617
- Hendrix v. Schulte, 2007 SD 73, ¶ 6, 736 N.W.2d 845, 847
- Burley v. Kytect Innovative Sports Equipment, Inc., 2007 SD 82, ¶ 34, 737 N.W.2d 397, 408
- Paradigm Hotel Mortg. Fund v. Sioux Falls Hotel Co., Inc., 511 N.W.2d 567, 569 (S.D. 1994)
- Schulte v. Progressive Northern Ins. Co., 2005 SD 75, ¶ 5, 699 N.W.2d 437, 438
- Johns v. Black Hills Power, Inc., 2006 SD 85, ¶ 4, 722 N.W.2d 554, 556
- Pearson v. O'Neal-Letcher, 2007 SD 92, ¶ 10, 738 N.W.2d 914
- Bollinger v. Eldredge, 524 N.W.2d 118, 122 (S.D. 1994)
- Estate of Klauzer, 2000 SD 7, ¶ 9, 604 N.W.2d 474, 477
- In re Estate of Nelson, 250 N.W.2d 286, 288 (S.D. 1977)
- Stull v. Sparrow, 92 Cal. App. 4th 860, 864-866, 112 Cal. Rptr. 2d 239
- Aberle v. Ringhausen, 494 N.W.2d 179, 182 (S.D. 1992)