

SUPREME COURT OF ARKANSAS

Allen v. Circuit Court of Pulaski County, Ninth Division

303 S.W.3d 70 (Ark. 2009) · No. No. 08-1236 · Decided April 2, 2009

SUMMARY

The Supreme Court of Arkansas denied Laura Allen's petition for a writ of prohibition seeking to prevent the Ninth Division of the Pulaski County Circuit Court from exercising jurisdiction over an action concerning enforcement of a family settlement agreement. The court held that prohibition was unavailable because the Ninth Division had already acted, and treated the petition as one for certiorari. It concluded that the jurisdictional-priority rule did not clearly establish a plain, manifest, clear, and gross abuse of discretion by the Ninth Division.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Robert L. Brown, Justice
JURISDICTION	Arkansas
DECIDED	April 2, 2009
DOCKET	No. 08-1236
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Laura Allen petitioned the Supreme Court of Arkansas for a writ of prohibition preventing the Pulaski County Circuit Court's Ninth Division from exercising jurisdiction over an action seeking enforcement of a family settlement agreement. The Supreme Court denied prohibition and declined to treat the petition as a writ of certiorari.
STANDARD OF REVIEW	A writ of prohibition is appropriate only when the lower court is wholly without subject-matter jurisdiction, no other adequate remedy such as appeal exists, and the jurisdictional issue is legal rather than factual. Certiorari is available only for proceedings erroneous on the face of the record and involving a plain, manifest, clear, and gross abuse of discretion.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential
PARTIES	Laura Allen v. Circuit Court of Pulaski County, Ninth Division, Kay Allen Bird, Lori Allen

TOPICS

writ of certiorari

subject matter jurisdiction

appellate procedure

trusts

guardianships

PRACTICE AREAS

civil procedure

appellate procedure

remedies

trusts

guardianships

QUESTIONS PRESENTED

1. Whether a writ of prohibition could issue to prevent the Ninth Division from exercising jurisdiction after it had already acted in the guardianship, constructive-trust, and enforcement proceedings.
2. Whether the common-law jurisdictional-priority rule required the Sixteenth Division, rather than the Ninth Division, to exercise exclusive jurisdiction over the family settlement agreement.
3. Whether the petition should be treated as a petition for a writ of certiorari and granted because the Ninth Division plainly, manifestly, clearly, and grossly abused its discretion.

HOLDINGS

1. A writ of prohibition does not lie to prevent action that the lower court has already taken.
2. The common-law jurisdictional-priority rule did not prevent the Ninth Division from acting because the Ninth Division first exercised jurisdiction over the matters forming the heart of the dispute and had jurisdiction over all necessary parties in the enforcement action.
3. Certiorari relief was not warranted because the record did not clearly establish a plain, manifest, clear, and gross abuse of discretion by the Ninth Division.

KEY QUOTATIONS

“The writ is appropriate only when there is no other remedy, such as an appeal, available. Prohibition is a proper remedy when the jurisdiction of the trial court depends upon a legal rather than a factual question.” (76)

“Certiorari lies to correct proceedings erroneous upon the face of the record when there is no other adequate remedy.” (76)

“Where two actions between the same parties on the same subject, and to test the same rights, are brought in different courts having concurrent jurisdiction, the court which first acquires jurisdiction, its power being adequate to the administration of complete justice, retains its jurisdiction and may dispose of the whole controversy, and no court of coordinate power is at liberty to interfere with its action.” (77)

FACTUAL BACKGROUND

The proceeds from the sale of property held by the Clytie Carolyn Allen Trust were used to build a new house that was later transferred into a joint revocable trust created by Dr. Thomas Allen and Laura Allen. After Dr. Allen was adjudicated incapacitated, his daughters brought a constructive-trust action concerning the house and trust proceeds, and the Ninth Division imposed a constructive trust. The parties later executed a family settlement agreement requiring sale of the house and payment of \$568,000 to the Carolyn Allen Trust; the

agreement was incorporated into a divorce decree by the Sixteenth Division. A subsequent enforcement action was transferred to the Ninth Division, which denied Laura Allen's motion to dismiss and ordered an appraisal.

PROCEDURAL HISTORY

The Ninth Division had presided over guardianship and constructive-trust proceedings involving the Country Club house and related trust proceeds. After the parties executed a family settlement agreement and the Sixteenth Division incorporated it into a divorce decree, a new specific-performance action was transferred to the Ninth Division. The Ninth Division denied Allen's motion to dismiss and ordered an appraisal of the house. Allen then sought prohibition in the Supreme Court of Arkansas, which denied relief.

DISPOSITION

writ_denied

CASES CITED

- Ulmer v. Circuit Court of Polk County, 366 Ark. 212, 234 S.W.3d 290 (2006)
- Conner v. Simes, 355 Ark. 422, 139 S.W.3d 476 (2003)
- Holmes v. Lessenberry, 297 Ark. 23, 759 S.W.2d 37 (1988) (per curiam)
- Lenser v. McGowan, 358 Ark. 423, 191 S.W.3d 506 (2004)
- Evans v. Blankenship, 374 Ark. 104, 286 S.W.3d 137 (2008)
- Patterson v. Isom, 338 Ark. 234, 992 S.W.2d 792 (1999)
- Tortorich v. Tortorich, 324 Ark. 128, 919 S.W.2d 213 (1996)
- Askew v. Murdock Acceptance Corp., 225 Ark. 68, 279 S.W.2d 557 (1955)
- Bradley v. State, 32 Ark. 722 (1878)
- Edwards v. Nelson, 372 Ark. 300, 275 S.W.3d 158 (2008)
- Foster v. Hill, 372 Ark. 263, 275 S.W.3d 151 (2008)