SUPREME COURT OF FLORIDA

In Re: Estate of P. P. Cobb

26 So. 2d 442 (Fla. 1946) · Decided June 7, 1946

SUMMARY

The court reviewed a probate decree awarding $15,000 in attorneys' fees for successfully contesting and setting aside an alleged will. It held that the fee award should not be disturbed absent an abuse of discretion or application of an incorrect legal rule, and affirmed the judgment in all respects except that $721.95 in trial-preparation expenses was chargeable as costs against the estate. The decree was otherwise affirmed.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Chapman, C. J.; Terrell, J.; Thomas, J.; Adams, J.
JURISDICTION	Florida
DECIDED	June 7, 1946
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a final decree awarding $15,000 as a reasonable attorney fee for successfully contesting and setting aside an alleged will.
STANDARD OF REVIEW	The attorney-fee award will not be reversed unless the trial court abused its discretion or was clearly wrong, including by applying a wrong rule of law to the evidence.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; precedential.
PARTIES	Appellants contesting the attorney-fee award v. W. E. Vassar, Executor of the Estate of P. P. Cobb, Fort Pierce Memorial Hospital, Fort Pierce Woman's Club Public Library

TOPICS

will contests · estate litigation · probate procedure · remedies · standard of review

PRACTICE AREAS

Probate · Estate litigation · Attorney fees · Appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion or applied an incorrect legal rule in awarding $15,000 in attorney fees for the will contest.
2. Whether $721.95 spent by Doyle E. Carlton in preparing the case for trial could be charged as costs against the estate.

HOLDINGS

1. The $15,000 attorney-fee award was not reversible because it did not clearly appear that the trial court abused its discretion or applied a wrong rule of law to the evidence.
2. The $721.95 expended by Doyle E. Carlton in preparing the case for trial could in equity be charged as costs against the estate.

KEY QUOTATIONS

> *"Attorneys fees in a case of this kind should be reasonable and adequate, though the condition of estates is sometimes such that they may be neither."*

> *"They should not be so small as to shock commonly accepted patterns of reason; neither should they be so large as to outrage the public conscience."*

FACTUAL BACKGROUND

The estate was valued at approximately $80,000 to $100,000. Counsel successfully contested a bogus will and thereby preserved administration under a bona fide will; the principal difference between the wills concerned the residuary estate, while the legacies were the same. The trial court awarded $15,000 in attorney fees, and the evidence included expert opinions that a reasonable fee would be approximately one-third of the estate's value. The estate's assets included real and personal property that had to be converted before distribution, and other legal expenses also remained to be paid.

PROCEDURAL HISTORY

The Circuit Court entered a final decree adjudicating $15,000 as a reasonable attorney fee for the attorneys who contested and set aside an alleged will of P. P. Cobb. The appellants argued that the award was inadequate and that the trial court had disregarded the evidence. The Supreme Court of Florida affirmed the judgment, except that it held a $721.95 litigation expense could in equity be charged as costs against the estate.

DISPOSITION

affirmed

OPINION

PER CURIAM.

This appeal is from a final decree adjudicating $15,000 to be a reasonable attorneys fee for contesting and setting aside an alleged will of P.P. Cobb, late of St. Lucie County. The testimony values Cobb's estate at a figure from $80,000 to $100,000. It is conceded that the case was very skillfully handled and that the contestant's counsel rescued the estate from disposition under a bogus will and are entitled to an ample fee, though no definite amount was contracted for.

The bogus will disposed of, a bona fide will was revealed, but the difference in them was in the disposition of the residuary estate. The legacies in each were the same. Eminent counsel testified that a reasonable fee should be fixed at one-third the value of the estate. Some of counsel who testified as to the fee thought that the amount of the legacies, $21,000, should not be considered in determining the fee, because that amount, having been distributed under either will, was not actually involved in the contest.

Appellants contend that the Chancellor disregarded all the evidence and fixed an amount that was inadequate considering the services performed. This Court has frequently detailed the elements that must actuate the trial court in reaching its judgment in a case of this kind.

The lawyers who testified as to the fee here are *Page 592 known to be some of the best in the state. The trial judge is also known to be a very able and fair judge, who knows the local color, the assets of the estate, and the conditions that affect it. He should not be reversed unless it is made to appear that he abused his discretion or was clearly wrong in his judgment.

The major portion of the estate was in personal real estate that must be reduced to cash before distribution. Then there are other legal expenses that must be paid. Attorneys fees in a case of this kind should be reasonable and adequate, though the condition of estates is sometimes such that they may be neither. They should not be so small as to shock commonly accepted patterns of reason; neither should they be so large as to outrage the public conscience.

If the Circuit Court had a well-grounded conviction that the estate would bring an amount materially below what it was appraised at, he should not be held in error for the amount he allowed; neither should he be held in error because he did not see eye to eye with those who testified as to the reasonable fee. He knew the status and condition of the assets and the amount of labor performed better than any of them.

Estates rarely bring what they are appraised at when put on forced sale. We are of the view that the bill of $721.95 expended by Doyle E. Carlton in preparing the case for trial may in equity be charged as costs against the estate.

In all other respects, the judgment is affirmed on the ground that it does not clearly appear that the Chancellor abused his discretion or applied a wrong rule of law to the evidence. Affirmed. CHAPMAN, C. J., TERRELL, THOMAS and ADAMS, JJ., concur.