

COURT OF APPEAL, FIRST DISTRICT, DIVISION 1, CALIFORNIA

Segovia v. Superior Court, 127 Cal.Rptr. 501

Segovia v. Superior Court, 127 Cal.Rptr. 501, 55 Cal.App.3d 464 (Cal. App. 1976) · No. Civ. 37244

SUMMARY

Probate court lacks authority under California Probate Code §§ 700 and 707 to permit late filing of a claim against a decedent's estate after the statutory four-month period expires, even if the estate had actual knowledge of the claim through service of a summons and complaint. The court held that waiver or estoppel arguments regarding late claims must be litigated in the civil action, not in probate proceedings. The 1971 amendments creating exceptions for insured estates (Prob. Code §§ 707(b), 721) did not apply retroactively to bar this pre-enactment claim. Topics: probate jurisdiction, late claims, statutory bar, waiver/estoppel, personal injury/death claims, creditor claims against estate.

CASE DETAILS

COURT	Court of Appeal, First District, Division 1, California
WRITING FOR THE COURT	Sims; Molinari; Elkington
JURISDICTION	California
DOCKET	Civ. 37244
DISPOSITION	vacated
PROCEDURAL POSTURE	Petition for writ of review of an order of the superior court (probate proceedings) granting leave to file a late claim against an estate.
STANDARD OF REVIEW	Not explicitly stated; court reviews whether probate court had authority to make the order.
PRECEDENTIAL VALUE	published
PARTIES	Carmen Segovia, Administratrix of the Estate of Raul Jose Segovia v. Eugene Radford et al.

TOPICS

- probate procedure
- probate
- estate administration
- waiver
- personal injury

PRACTICE AREAS

- Probate
- Estates
- Torts

QUESTIONS PRESENTED

1. Whether the probate court has power to permit late filing of a claim beyond statutory exceptions.
2. Whether facts that might support waiver/estoppel in the civil action authorize the probate court to permit late filing.

HOLDINGS

1. The probate court has no power or authority to permit the filing of a late claim against the estate after expiration of the statutory period under Probate Code sections 700, 707, where none of the statutory exceptions (sections 702, 707(a), 707(b), 707.5, 709, 720, 721) applied. Mere notice to the estate or facts that might support waiver/estoppel in the civil action do not authorize the probate court to permit late filing.

KEY QUOTATIONS

“We hold that (1) except as otherwise provided by statute (see, e.g., fns. 2 and 3 and accompanying text), a probate court has no power to permit the filing of a creditor's claim after expiration of the statutory period for filing or presenting claims; (2) under proper circumstances, a creditor's claim which has been filed or presented within the statutory period may be amended after such period had run; (3) whether a claim has in fact been filed or presented within the statutory period so as to be the subject of an amendment depends upon the circumstances of the particular case; and (4) mere notice to the estate, in the sense of imparting knowledge of the underlying debt to the representative, does not constitute a sufficient claim or demand which can be the basis of an amendment.” (468)

“We are not disposed to engraft on the provisions governing the administration of estates, a system inconsistent with that which has now been provided by the Legislature. It is concluded that the superior court had no power or authority to make the order it did in the probate proceedings, and the order granting the petition of real parties in interest for leave to file a late claim must be annulled.” (470)

FACTUAL BACKGROUND

On January 23, 1971, Raul Jose Segovia died in an accident. Eugene Radford and others allegedly suffered injuries in the same accident. Within three months, they filed a negligence action for personal injuries against the administratrix (named as Doe One). The decedent's only asset was a \$25,000 liability insurance policy. The widow, Carmen Segovia, was served with summons and complaint and delivered them to the insurance carrier, which entered a defense. Over many months, attorneys communicated, extensions were granted, depositions were taken. The widow was appointed administratrix and published notice to creditors, but no actual notice of probate was given to plaintiffs' attorneys. More than one year after the cause of action accrued, and after the claim-filing period expired, the administratrix demurred on the ground that no claim had been filed. The demurrer was sustained. Plaintiffs then petitioned for leave to file a late claim, which the superior court granted.

PROCEDURAL HISTORY

Real parties in interest (plaintiffs in a civil action for personal injuries) petitioned the probate court for leave to file a late claim against the decedent's estate. The superior court granted the petition. The administratrix sought review of that order.

DISPOSITION

vacated

REMAND INSTRUCTIONS

This order is without prejudice to real parties' in interest right to file a revised third amended complaint setting forth such allegations as they may be advised.

CASES CITED

- Nathanson v. Superior Court, 12 Cal.3d 355, 115 Cal.Rptr. 783, 525 P.2d 687 (1974)
- Satterfield v. Garmire, Satterfield v. Garmire, 65 Cal.2d 638, 56 Cal.Rptr. 102, 422 P.2d 990 (1967)
- Farrell v. County of Placer, 23 Cal.2d 624, 145 P.2d 570 (1944)
- Katz v. A.J. Ruhlman & Co., 69 Cal.App.2d 541, 159 P.2d 426 (1945)
- Radar v. Rogers, 49 Cal.2d 243, 317 P.2d 17 (1957)
- Estate of Grant, 2 Cal.2d 661, 43 P.2d 266 (1935)
- Wood v. Brown, 39 Cal.App.3d 232, 114 Cal.Rptr. 63 (1974)
- Harvey v. City of Holtville, 252 Cal.App.2d 595, 60 Cal.Rptr. 635 (1967)
- Petersen v. City of Vallejo, 259 Cal.App.2d 757, 66 Cal.Rptr. 776 (1968)
- Sumrall v. City of Cypress, 258 Cal.App.2d 565, 65 Cal.Rptr. 755 (1968)
- Morgan v. International Aviation Underwriters, Inc., 250 Cal.App.2d 176, 58 Cal.Rptr. 164 (1967)
- Glass v. Benkert, 18 Cal.App.3d 322, 95 Cal.Rptr. 735 (1971)
- Billups v. Tiernan, 11 Cal.App.3d 372, 90 Cal.Rptr. 246 (1970)
- Isaacson v. City of Oakland, 263 Cal.App.2d 414, 69 Cal.Rptr. 379 (1968)