

DISTRICT COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT

Joe R. Parker, Jr., Eddie Shelton Parker, David Parker and Cornel Parker v. Sean Cornelius Parker, Joan Parker, Kevin Parker and Parkersquest, LLC

Joe R. Parker, Jr., Eddie Shelton Parker, David Parker and Cornel Parker v. Sean Cornelius Parker, Joan Parker, Kevin Parker and Parkersquest, LLC, 185 So. 3d 616 (Fla. 4th DCA 2016) (Fla. 4th DCA 2016) · No. 4D14-666

SUMMARY

The decedent's estate is not an indispensable party under Fla. Stat. § 733.607 in an action to set aside inter vivos conveyances for undue influence, because the properties were transferred before death and thus never became part of the estate. The Fourth District reversed the trial court's dismissal, holding that Florida law permits children to challenge pre-death transfers without joining the estate.

CASE DETAILS

COURT	District Court of Appeal of Florida, Fourth District
WRITING FOR THE COURT	Klingensmith; Gross; Gerber
JURISDICTION	Florida
DOCKET	4D14-666
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from final order dismissing complaint with prejudice for failure to join indispensable party.
STANDARD OF REVIEW	de novo
PRECEDENTIAL VALUE	published
PARTIES	Joe R. Parker, Jr., Eddie Shelton Parker, David Parker, Cornel Parker v. Sean Cornelius Parker, Joan Parker, Kevin Parker, Parkersquest, LLC

TOPICS

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PRACTICE AREAS

[probate](#)[civil procedure](#)[real property](#)

QUESTIONS PRESENTED

1. Whether a decedent's estate is an indispensable party under section 733.607, Florida Statutes, in an action seeking to set aside inter vivos conveyances based on allegations of undue influence.

HOLDINGS

1. The decedent's estate is not an indispensable party under section 733.607 when the properties were conveyed inter vivos and thus not part of the estate at death, and the estate need not be joined for a final decision to be rendered.

KEY QUOTATIONS

“Indispensable parties are necessary parties so essential to a suit that no final decision can be rendered without their joinder.” (185 So. 3d at 618)

“This section clearly states that a personal representative has rights to property that remains in the decedent's possession at death. However, the subject properties at issue in this case were not part of the decedent's estate at the time he died because they had already been conveyed inter vivos to Sean and Parkersquest.” (185 So. 3d at 618)

FACTUAL BACKGROUND

Decedent Joe Parker, Sr., terminally ill, conveyed seven properties just fifteen days before his death in September 2006. Three properties were transferred to his son Sean and four to Parkersquest, LLC, an entity created the same day and solely owned by Sean. Appellants, the decedent's children from other relationships, filed suit seeking to set aside these conveyances on theories of tortious interference with inheritance, unjust enrichment, and replevin.

PROCEDURAL HISTORY

Appellants, children of decedent from other relationships, sued appellees to set aside inter vivos conveyances. After years of delay, appellees moved to dismiss for failure to join the estate as an indispensable party. The trial court granted dismissal with prejudice. Appellants opened the estate and sought leave to amend, which was denied. This appeal followed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the trial court's order dismissing the case with prejudice for failure to join the estate as a party, and remand for further proceedings.

CASES CITED

- Fla. Dep't of Revenue v. Cummings, 930 So. 2d 604 (Fla. 2006)

- Kasischke v. State, 991 So. 2d 803 (Fla. 2008)
- Kephart v. Hadi, 932 So. 2d 1086 (Fla. 2006)
- Citibank, N.A. v. Villanueva, 174 So. 3d 612 (Fla. 4th DCA 2015)
- Hertz Corp. v. Piccolo, 453 So. 2d 12 (Fla. 1984)
- Prat v. Carns, 85 So. 681 (Fla. 1920)
- Mulato v. Mulato, 705 So. 2d 57 (Fla. 4th DCA 1997)
- Dunn v. White, 500 So. 2d 565 (Fla. 2d DCA 1986)
- Omel v. Simpson, 386 So. 2d 2 (Fla. 4th DCA 1980)
- Barger v. Barger, 183 So. 2d 253 (Fla. 2d DCA 1966)
- Bryant v. Bryant, 379 So. 2d 382 (Fla. 1st DCA 1979)
- Wrobbel v. Walda, 217 So. 2d 340 (Fla. 4th DCA 1968)
- Rowland v. McCall, 118 So. 2d 846 (Fla. 2d DCA 1960)
- D.S. v. J.L., 18 So. 3d 1103 (Fla. 1st DCA 2009)