

NEW YORK SUPREME COURT

In re Vandervort's Estate

17 N.Y.S. 316 (N.Y. Sup. Ct. 1892) · Decided January 22, 1892

SUMMARY

The court considered whether a beneficiary and the beneficiary’s children forfeited testamentary gifts by filing and recovering a claim against the decedent’s estate. It held that the forfeiture provision was inoperative because it rested on a mistaken or unsupported premise regarding the decedent’s indebtedness, lacked a gift over, and could not defeat the interests of the beneficiary’s minor children. The decree was affirmed with costs payable from the estate.

CASE DETAILS

COURT	New York Supreme Court
WRITING FOR THE COURT	Macohber, J.
JURISDICTION	New York
DECIDED	January 22, 1892
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal by Peter Garlock, one of the executors, from a surrogate's decree settling the account of Gilbert M. Vandervort as executor of Thomas Vandervort's estate.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Peter Garlock v. Gilbert M. Vandervort, Clarence S. Vandervort, Clara E. Vandervort

TOPICS

- probate procedure
- estate administration
- estate planning
- probate

PRACTICE AREAS

- Probate
- Wills and trusts
- Estate administration

QUESTIONS PRESENTED

1. Whether Gilbert M. Vandervort forfeited his testamentary benefits by presenting, prosecuting, and recovering payment of a valid claim against the estate.

2. Whether the forfeiture provision was enforceable as a reasonable condition on the testamentary gifts.
3. Whether the forfeiture provision was ineffective because it was a condition subsequent unsupported by a gift over.
4. Whether Gilbert's children could lose their testamentary benefits because of their father's conduct while they were infants.
5. Whether the surrogate had jurisdiction to determine the forfeiture issues.

HOLDINGS

1. The forfeiture provision was unreasonable and inoperative because it rested on the testator's mistaken or knowingly false assertion that he was not indebted to Gilbert, and it could not defeat the absolute legacy expressed in the will.
2. The forfeiture provision was a condition subsequent and was inoperative because the will did not provide a gift over of the forfeited legacy.
3. Gilbert's children did not forfeit their testamentary benefits because they were infants and their otherwise valid gifts could not be defeated by another person's failure to comply with the will.
4. The surrogate had jurisdiction to consider and determine the forfeiture issues.

KEY QUOTATIONS

"We are consequently of the opinion that this provision contained in the second codicil was unreasonable, and ought not to be enforced in this instance" (318)

"In either event, we think the attempted forfeiture of the bequest was inoperative." (319)

FACTUAL BACKGROUND

Thomas Vandervort's will gave his son Gilbert M. Vandervort a \$500 legacy and gave Gilbert's children, Clarence and Clara, interests in the estate's residue. A codicil declared that any child who presented a claim against the estate would forfeit all testamentary benefits. At the time of the codicil, however, Thomas was indebted to Gilbert, and Gilbert's claim was properly proved and paid during the accounting proceeding. Clarence and Clara were infants when the will was probated.

PROCEDURAL HISTORY

After Thomas Vandervort's will and codicils were admitted to probate, Gilbert M. Vandervort and Peter Garlock served as executors. Gilbert presented and recovered payment of a debt owed to him by the decedent during a judicial settlement proceeding in the Ontario County Surrogate's Court. The surrogate entered a decree settling Gilbert's account, and Peter Garlock appealed, arguing that Gilbert and Gilbert's children forfeited their testamentary benefits by prosecuting the claim.

DISPOSITION

affirmed

CASES CITED

- Cooke v. Turner, 14 Sim. 493, 15 Mees. & W. 727
- Evanturel v. Evanturel, 31 Law T. (N. S.) 105, L. R. 6 P. C. 1
- Hogan v. Curtin, 88 N.Y. 162
- Brownson v. Gifford, 8 How. Pr. 393
- Hogeboom v. Hall, 24 Wend. 146
- Sackett v. Mallory, 1 Metc. (Mass.) 355
- Re Hollister, 47 Hun, 413
- Jackson v. Westerfield, 61 How. Pr. 399
- Bryant v. Thompson, (Sup.) 14 N. Y. Supp. 28
- Garlock v. Vandevort, 12 N. Y. Supp. 955
- Garlock v. Vandevort, 28 N. E. Rep. 599