

CALIFORNIA COURT OF APPEAL, THIRD APPELLATE DISTRICT

Drake v. Pinkham

Drake · No. C068747 · Decided June 21, 2013

SUMMARY

The California Court of Appeal affirmed summary judgment for the defendants in a beneficiary's petition challenging amendments to a revocable trust based on lack of capacity, undue influence, fiduciary breaches, fraud, elder financial abuse, and related claims. The court held that the action was barred by laches because the plaintiff knew or should have known of the amendments by August 2006, delayed filing until after the settlor's death, and thereby prejudiced the defendants. The court did not decide whether the claims were also barred by statutes of limitation or collateral estoppel.

CASE DETAILS

COURT	California Court of Appeal, Third Appellate District
WRITING FOR THE COURT	Blease, Acting P. J.; Nicholson, J.; Duarte, J.
JURISDICTION	California
DECIDED	June 21, 2013
DOCKET	C068747
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from a summary judgment entered for defendants on her probate petition challenging two amendments to a revocable trust and seeking declaratory, constructive-trust, and damages remedies.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The appellate court independently assesses whether a genuine issue of material fact exists and whether the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published California Court of Appeal opinion; certified for publication on June 21, 2013.
PARTIES	Rosina Jeanne Drake v. Janice Marie Pinkham, as Trustee, etc., Daniel Pinkham

TOPICS

probate procedure

trusts

summary judgment

standing

appellate procedure

PRACTICE AREAS

Probate

Trusts

Civil procedure

Appellate procedure

Remedies

QUESTIONS PRESENTED

1. Whether the summary judgment could be affirmed on the affirmative defense of laches even though the trial court relied on statutes of limitations and collateral estoppel.
2. Whether Gina lacked standing to challenge the trust amendments before Josephine's death under Probate Code sections 17200 and 15800.
3. Whether the undisputed facts established unreasonable delay and prejudice sufficient to sustain the defense of laches.

HOLDINGS

1. The Court of Appeal may affirm a summary judgment on any correct legal theory when the parties had an adequate opportunity to address that theory in the trial court and on appeal. Because laches was fully briefed and argued, the judgment could be affirmed on that ground without deciding the statute-of-limitations or collateral-estoppel issues.
2. Laches barred all of Drake's causes of action because she unreasonably delayed bringing the action after learning of the challenged trust amendments, and the delay prejudiced defendants when Josephine died before the action was filed.
3. A beneficiary of a revocable trust is not barred from challenging the trust before the settlor's death when the beneficiary alleges that the settlor lacked the requisite competence. Thus, Drake could have pursued her challenge before Josephine died, although she would have had to prove Josephine's incompetence to establish standing.

KEY QUOTATIONS

“We review the grant of summary judgment de novo. [Citation.] We make “an independent assessment of the correctness of the trial court’s ruling, applying the same legal standard as the trial court in determining whether there are any genuine issues of material fact or whether the moving party is entitled to judgment as a matter of law.”” (5)

“The defense of laches requires unreasonable delay plus either acquiescence in the act about which plaintiff complains or prejudice to the defendant resulting from the delay.” (6)

“The language concerning the incompetence of the settlor would be wholly superfluous if the beneficiary could not challenge competence until after the settlor’s death.” (8)

FACTUAL BACKGROUND

Theodore and Josephine Citta established a revocable living trust that initially provided for equal distribution between their daughters, Janice and Gina. Josephine later executed a 2001 amendment eliminating Gina as a beneficiary and naming Janice as sole successor trustee, followed by a 2004 amendment designating Janice as acting co-trustee and sole successor trustee. Gina learned of the amendments during litigation of her 2005

petition but did not challenge them until March 2010, after Josephine's death, alleging lack of capacity, undue influence, fiduciary breaches, fraud, elder financial abuse, and related remedies.

PROCEDURAL HISTORY

Drake filed an initial petition in 2005 concerning her appointment as co-trustee and alleging Josephine's incompetence and Janice's undue influence. The parties entered a settlement adopted as a court order in August 2006, without Drake challenging the fourth and fifth trust amendments. After Josephine died in October 2009, Drake filed the underlying petition in March 2010. The superior court granted defendants' summary judgment motion, ruling that some claims were barred by collateral estoppel and the remaining claims by statutes of limitations; the Court of Appeal affirmed on the alternative ground of laches.

DISPOSITION

affirmed

CASES CITED

- California School of Culinary Arts v. Lujan (2003) 112 Cal.App.4th 16, 22
- Howard Entertainment, Inc. v. Kudrow (2012) 208 Cal.App.4th 1102, 1113
- Johnson v. City of Loma Linda, Johnson v. City of Loma Linda (2000) 24 Cal.4th 61, 68
- Magic Kitchen LLC v. Good Things Internat., Ltd. (2007) 153 Cal.App.4th 1144, 1157
- San Bernardino Valley Audubon Society v. City of Moreno Valley (1996) 44 Cal.App.4th 593, 605
- Miller v. Eisenhower Medical Center (1980) 27 Cal.3d 614, 624
- Matrixx Initiatives, Inc. v. Doe (2006) 138 Cal.App.4th 872, 877
- Common Cause v. Board of Supervisors (1989) 49 Cal.3d 432, 438
- Estate of Giralдин (2012) 55 Cal.4th 1058, 1065-1066
- Lonely Maiden Productions, LLC v. GoldenTree Asset Management, LP (2011) 201 Cal.App.4th 368, 379
- Bono v. Clark (2002) 103 Cal.App.4th 1409, 1420
- Stafford v. Ballinger (1962) 199 Cal.App.2d 289, 296