UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION

United States v. Certain Real Property

724 F. Supp. 908 (S.D. Fla. 1989) · No. No. 88-8272-CIV · Decided October 10, 1989

SUMMARY

The United States sought civil forfeiture of a condominium unit under 21 U.S.C. § 881(a)(7), alleging that it was used to manufacture a controlled substance. The court held that the claimants, acting as personal representatives, failed to establish innocent ownership because the beneficiaries had actual knowledge of the illegal activity, and ordered the property forfeited to the United States.

CASE DETAILS

COURT	United States District Court for the Southern District of Florida, Miami Division
WRITING FOR THE COURT	Spellman, District Judge
JURISDICTION	Florida
DECIDED	October 10, 1989
DOCKET	No. 88-8272-CIV
DISPOSITION	other
PROCEDURAL POSTURE	The United States brought an in rem civil forfeiture action against residential real property allegedly used to manufacture a controlled substance. After a bench trial, the district court entered findings of fact and conclusions of law under Federal Rule of Civil Procedure 52.
STANDARD OF REVIEW	Bench-trial findings were entered under Federal Rule of Civil Procedure 52. The claimants bore the burden of proving standing and, after the Government established probable cause, proving an innocent-owner defense by a preponderance of the evidence.
PRECEDENTIAL VALUE	Published federal district court opinion; persuasive authority within the district and nonbinding authority elsewhere.

TOPICS

real estate · remedies · civil procedure · trusts · probate

PRACTICE AREAS

civil forfeiture · real property · federal civil procedure · remedies · trusts and estates

QUESTIONS PRESENTED

1. Whether the personal representatives of the estate had standing to contest the forfeiture independently of the trust beneficiaries.
2. Whether knowledge of the trust beneficiaries' illegal use of the property was attributable to the personal representatives acting on their behalf.
3. Whether 21 U.S.C. § 881(a)(7)'s innocent-owner defense requires only proof that the owner lacked knowledge of and consent to the illegal use, or also requires proof that the owner did everything reasonably possible to prevent the use.
4. Whether the claimants proved innocent ownership by a preponderance of the evidence.

HOLDINGS

1. Personal representatives of the estate had standing to contest the forfeiture only to the extent that they represented the interests of the trust beneficiaries; they lacked standing to challenge the forfeiture independently of those beneficiaries.
2. Once the Government established probable cause for the forfeiture, the burden shifted to the claimants to prove an applicable defense by a preponderance of the evidence.
3. To establish innocent ownership under § 881(a)(7), a claimant must prove by a preponderance of the evidence that the proscribed use of the property occurred without the claimant's actual knowledge or consent; the claimant need not additionally prove that the claimant did everything reasonably possible to prevent the illegal use.
4. The claimants failed to establish innocent ownership because the beneficiaries had actual knowledge of the property's illegal use, and that knowledge was imputed to the personal representatives.

KEY QUOTATIONS

> *“Hence, to establish "innocent ownership" under Section 881(a)(7), a claimant need only prove by a preponderance of the evidence that he did not know of, nor consent to, the proscribed use of defendant property.”* (at 916)

> *“Based upon the foregoing precedent, this Court finds that 21 U.S.C.A. Section 881(a)(7) imposes no requirement that a person who claims the status of an "innocent owner" establish that he has done all that he could reasonably be expected to do to prevent the proscribed use of his property.”* (at 916)

> *“Based upon the foregoing, it is the opinion of this Court that Claimants have failed to establish the defense of innocent ownership, as the beneficiaries had actual knowledge of the illegal activity, and said knowledge is imputed to Claimants in their capacity as personal representatives.”* (at 917)

FACTUAL BACKGROUND

The property was owned by Henrietta Uttal at her death and devised to a bank trustee for the benefit of Conrad Uttal, Sr., and his sons. Conrad Uttal, Sr., used the residence to manufacture P2P, a controlled substance, and was convicted after law enforcement found chemicals, manufacturing materials, drug paraphernalia, and a crude laboratory at the property. Conrad Sr. and his sons were the occupants during the illegal activity, and the court found that all three beneficiaries had actual knowledge of the property's illegal use. The personal representatives of Henrietta's estate had not inspected the property after their appointment or after learning of the arrest and seizure.

PROCEDURAL HISTORY

The United States filed the forfeiture action on June 6, 1988, alleging that the property was used or intended to be used to commit or facilitate a felony in violation of 21 U.S.C. § 881(a)(7). Several occupants failed to file verified notices of claim and were defaulted. The court denied the trustee's motion to intervene, concluding that the trustee's interest was adequately protected through the personal representatives' claim. Following a June 1989 bench trial, the court rejected the personal representatives' innocent-owner defense and ordered the property forfeited to the United States.

DISPOSITION

other

CASES CITED

- Calero-Toledo v. Pearson Yacht Leasing Co., 416 U.S. 663, 94 S. Ct. 2080, 40 L. Ed. 2d 452 (1974)
- United States v. A Single Family Residence, 803 F.2d 625, 628 (11th Cir. 1986)
- United States v. One 1975 Ford F100 Pick-up Truck, 558 F.2d 755, 756 (5th Cir. 1977)
- United States v. One 1971 Chevrolet Corvette Automobile, 496 F.2d 210, 212 (5th Cir. 1974)
- United States v. Four Million, Two Hundred Fifty-Five Thousand Dollars, 762 F.2d 895, 906 n. 24 (11th Cir. 1985)
- United States v. $10,694.00 U.S. Currency, 828 F.2d 233, 234 (4th Cir. 1987)
- United States v. One Parcel of Real Estate, Case No. 88-14167-CIV-DAVIS (S.D. Fla. Aug. 18, 1989)
- United States v. One 1980 Bertram 58' Motor Yacht, 876 F.2d 884, n. 3 (11th Cir. 1989)
- United States v. One (1) 1983, Fifty-Seven Foot (57) Gulfstream Vessel, 640 F. Supp. 667, 672 (S.D. Fla. 1986)
- United States v. One 1977 36 Foot Cigarette Ocean Racer, 624 F. Supp. 290, 294-95 (S.D. Fla. 1985)
- United States v. Three Hundred Sixty Four Thousand Nine Hundred Dollars in U.S. Currency, 661 F.2d 319, 326 (5th Cir. 1981)
- United States v. Five Hundred Thousand Dollars, 730 F.2d 1437 (11th Cir. 1984)
- United States v. One 1945 Douglas C-54 (DC-4) Aircraft, etc., 604 F.2d 27 (8th Cir. 1979)
- United States v. One Single Family Residence, 699 F. Supp. 1531, 1534 (S.D. Fla. 1988)
- United States v. Certain Real Property on the Premises Known as 171-02 Liberty Avenue, Queens, New York, 710 F. Supp. 46, 48 (E.D.N.Y. 1989)