

CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT IN AND FOR
HILLSBOROUGH COUNTY, FLORIDA

In re Estate of Haber

1 Fla. Supp. 2d 39 (1981) · Decided July 28, 1981

SUMMARY

The court grants summary judgment against all claims by Betty Lou Haber to property from her deceased husband’s estate after her conviction for his murder. It holds that Florida’s murderer’s statute bars her inheritance, dower, homestead, and will-based claims, and that equitable principles bar her contractual claims under an ante-nuptial agreement. The court also relies on the criminal conviction, of which it took judicial notice, and concludes that the purported unilateral amendment to the agreement cannot support her claims.

CASE DETAILS

COURT	Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida
WRITING FOR THE COURT	Benjamin C. Sidwell
JURISDICTION	Florida
DECIDED	July 28, 1981
DISPOSITION	other
PROCEDURAL POSTURE	The personal representative moved for summary judgment against Betty Lou Haber's claims to the decedent's property. Haber requested judicial notice of portions of the criminal-trial record. The court granted summary judgment on every count.
STANDARD OF REVIEW	Summary judgment is appropriate where the material facts are undisputed and the movant is entitled to judgment as a matter of law; the court treated the affirmed murder conviction as conclusively establishing Haber's responsibility for the killing.
PRECEDENTIAL VALUE	Published Florida circuit court opinion; persuasive authority outside the issuing circuit and not a statewide appellate precedent.
PARTIES	Betty Lou Haber v. Estate of Albert Haber, Personal representative of Albert Haber, Heirs of Albert Haber

TOPICS

slayer statute

probate procedure

probate

contracts

summary judgment

PRACTICE AREAS

probate

estate litigation

contracts

evidence

civil procedure

QUESTIONS PRESENTED

1. Whether an affirmed conviction for murdering a decedent bars the murderer from asserting dower, homestead, will-based life-estate, and other probate-law rights in the decedent's estate.
2. Whether the equitable principle that no person may profit from his or her own wrong bars a murderer's claims founded on an ante-nuptial agreement.
3. Whether judicial notice of the criminal conviction eliminates the need to relitigate the murderer's guilt in the probate proceeding.
4. Whether the personal representative was entitled to summary judgment on all of Haber's claims.

HOLDINGS

1. A person convicted of murdering a decedent is barred by Florida's murder statute from inheriting from the decedent or taking as a legatee or devisee, and the statute also bars Haber's dower, homestead life-estate, and will-based life-estate claims because those rights arise from Florida's probate and succession laws and depend on an inheritable interest or surviving-spouse status.
2. The equitable maxim that no wrongdoer should profit from his or her own wrong bars Haber's claims for benefits under the ante-nuptial agreement because she feloniously caused the condition involving the continuation of the marriage until Albert's death.
3. Even assuming the purported amendment to the ante-nuptial agreement was valid, the equitable rule against profiting from one's own wrong would bar Haber's asserted rights under it.
4. Judicial notice of the affirmed criminal conviction dispensed with the need to relitigate Haber's guilt in the probate proceeding.

KEY QUOTATIONS

"The Court grants summary judgment against all claims by Betty Haber to the property of Albert Haber because she feloniously killed him." (42)

"The claims founded in contract — the ante-nuptial agreement providing that she should receive \$1,000.00 per year for each year the marriage endured, provided they were still living together as husband and wife at his death, are barred by the equitable maxim that no wrongdoer should profit by his wrong." (43)

"ORDERED AND ADJUDGED that the Motion for Summary Judgment is granted as to each and every count of the petition of Betty Lou Haber." (44)

FACTUAL BACKGROUND

Betty Lou Haber arranged the murder of her husband, Albert Haber, by hiring two killers and leaving a door unlocked so they could enter while she was away. She was convicted of first-degree murder, and the conviction was affirmed. She sought property and contract benefits from Albert's estate, including dower, homestead and will-based life-estate rights, and payments under an ante-nuptial agreement and a purported unilateral amendment.

PROCEDURAL HISTORY

After Albert Haber was murdered, Betty Lou Haber was convicted of first-degree murder, and the conviction was affirmed on appeal. In the probate proceeding, she asserted dower, homestead, will-based life-estate, and ante-nuptial-agreement claims. The circuit court took judicial notice of specified criminal-record materials and granted the personal representative's motion for summary judgment.

DISPOSITION

other

CASES CITED

- Sikora v. Sikora, 499 P. 2d 808 (Mont. 1972)
- Hill v. Morris, 85 So. 2d 847 (Fla. 1956)
- Carter v. Carter, 88 So. 2d 153 (Fla.)
- Ashwood v. Patterson, 49 So. 2d 848 (Fla.)
- Peebles v. Corbett, 157 So. 510 (Fla.)
- Estate of Max Kravitz, 211 A. 2d 443 (Pa. 1965)
- Travelers Insurance Co. v. Thompson, 163 N.W. 2d 289 (Minn. 1968)
- In re Estate of Yanowsky, 2d DCA, opinion dated May 30, 1980