

SUPREME COURT OF ALABAMA

Whited v. Holmes

816 So. 2d 20 (Ala. 2001) · No. 1001002 · Decided October 5, 2001

SUMMARY

The Alabama Supreme Court reviewed a dispute over the surviving spouse's elective share of a decedent's estate. The court held that real property conveyed to the surviving spouse, subject to her mother's life estate, was not part of the decedent's estate, but that funeral expenses paid by the executrix had to be deducted before calculating the elective share. The judgment was affirmed in part, reversed in part, and remanded.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Harwood, Justice; Moore, Chief Justice; See, Justice; Brown, Justice; Stuart, Justice
JURISDICTION	Alabama
DECIDED	October 5, 2001
DOCKET	1001002
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The executrix appealed a circuit-court judgment awarding the decedent's widow an elective share of the estate. The Court of Civil Appeals transferred the appeal to the Supreme Court of Alabama because it lacked subject-matter jurisdiction.
STANDARD OF REVIEW	Findings of fact based on ore tenus evidence are presumed correct and will not be disturbed unless clearly erroneous, manifestly unjust, or palpably wrong. Legal issues, including statutory interpretation and application of the claims statute, are reviewed according to applicable legal standards.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Sallie Whited, as executrix of the estate of Glenn H. Holmes, deceased v. Laura Jean Holmes

TOPICS

elective share

estate administration

probate

appellate procedure

statutory interpretation

PRACTICE AREAS

Probate

Estate administration

Appellate procedure

QUESTIONS PRESENTED

1. Whether real property conveyed to Laura Jean Holmes subject to her mother's life estate should be included in Glenn H. Holmes's estate because the spouses used the property jointly during their marriage.
2. Whether funeral expenses paid by the executrix should be deducted from the estate before calculating the widow's elective share.
3. Whether the estate should be reduced by an alleged \$4,000 mortgage payment.
4. Whether the widow's elective share should be reduced by the value of cattle-sale proceeds and certain personal property allegedly received by her.

HOLDINGS

1. Property conveyed to Laura Jean Holmes and her mother, with Laura Jean Holmes retaining a remainder interest subject to her mother's life estate, was not part of Glenn H. Holmes's estate merely because the spouses used the property jointly during their marriage.
2. Funeral expenses paid by the personal representative are properly chargeable against the decedent's estate and must be deducted from the estate before calculating the surviving spouse's elective share.
3. The court declined to disturb the judgment concerning the alleged mortgage payment because Whited cited no supporting authority and the evidence was disputed; the ore tenus presumption therefore supported affirmance absent palpable error.
4. The cattle-sale proceeds and the bedroom suite, dining room suite, and wood-burning fireplace insert were properly excluded from Glenn Holmes's estate and were not deductible from Laura Jean Holmes's elective share.

KEY QUOTATIONS

“Therefore, after this conveyance the decedent had no interest in the property, and nothing in the record shows that he ever regained any interest in the property.” (24)

“Payment of funeral expenses by a personal representative are debts of a decedent and are properly chargeable against the decedent's estate.” (25)

“Therefore, we conclude that the trial court should have deducted \$5,324.36 from the estate, for funeral expenses, before calculating Holmes's elective share.” (25)

“The trial court's order is affirmed except as to its failure to deduct funeral expenses in the calculation of the elective share.” (27)

FACTUAL BACKGROUND

Glenn H. Holmes and Laura Jean Holmes married, divorced, remarried, and Glenn died on March 18, 1999. A deed conveyed certain real property to Laura Jean Holmes, subject to a life estate in her mother, although the property had been used jointly by the spouses during their marriage. The circuit court included personal property in the estate, awarded Laura Jean Holmes homestead and exempt-property allowances and an elective share, but did not deduct \$5,324.36 in funeral expenses paid by the executrix from estate funds before calculating the elective share.

PROCEDURAL HISTORY

After Glenn H. Holmes's death, Sallie White filed his will and was appointed executrix. Laura Jean Holmes obtained homestead and exempt-property allowances and sought an elective share. Following a hearing with ore tenus evidence, the circuit court valued the estate at \$120,450 and awarded Holmes \$39,483.33. White appealed; the Court of Civil Appeals transferred the appeal to the Supreme Court of Alabama. The Supreme Court affirmed most of the judgment but reversed and remanded for deduction of funeral expenses before calculating the elective share.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The circuit court must deduct \$5,324.36 in funeral expenses from the estate before calculating Laura Jean Holmes's elective share. The remainder of the judgment is affirmed.

CASES CITED

- Beck v. Beck, Beck v. Beck, 564 So. 2d 979 (Ala. Civ. App. 1990)
- Wilson v. Wilson, 404 So. 2d 76 (Ala. Civ. App. 1981)
- Alston v. Alston, 555 So. 2d 1128 (Ala. Civ. App. 1989)
- MacKenzie v. MacKenzie, 486 So. 2d 1289 (Ala. Civ. App. 1986)
- Gilbreath v. Levi, 270 Ala. 413, 119 So. 2d 210 (1959)
- Canada v. Canada, 243 Ala. 109, 8 So. 2d 846 (1942)
- Wommock v. Davis, 228 Ala. 362, 153 So. 611 (1934)
- Spradlin v. Birmingham Airport Authority, 613 So. 2d 347 (Ala. 1993)
- City of Birmingham v. Business Realty Inv. Co., 722 So. 2d 747, 752 (Ala. 1998)
- McLemore v. Fleming, 604 So. 2d 353 (Ala. 1992)
- Stover v. Alabama Farm Bureau Ins. Co., 467 So. 2d 251 (Ala. 1985)
- Ex parte Riley, 464 So. 2d 92 (Ala. 1985)
- Nichols v. Barnette, 528 So. 2d 322, 323 (Ala. 1988)
- Gullede v. Frosty Land Foods Int'l, Inc., 414 So. 2d 60, 63 (Ala. 1982)

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