

SUPREME COURT OF VERMONT

In re Estate of Daniel Maggio

193 Vt. 1 (2012) · No. 2011-433 · Decided November 30, 2012

SUMMARY

The Vermont Supreme Court affirmed a superior court decision holding that real property acquired with partnership funds was partnership property and that the decedent relinquished his partnership interest to the surviving partner upon dissolution. The court also held that the widow's interrogatory answers were admissible as party-opponent admissions, were not barred by the best evidence rule or Vermont's dead man's statutes, and were not subject to the personal-knowledge requirement of V.R.E. 602.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Beth Robinson, Associate Justice; Paul L. Reiber, Chief Justice; Denise R. Johnson, Justice; Marilyn S. Skoglund, Justice; John A. Dooley, Justice; E. Paul Costello, Jr., Justice
JURISDICTION	Vermont
DECIDED	November 30, 2012
DOCKET	2011-433
DISPOSITION	affirmed
PROCEDURAL POSTURE	Rosann Maggio appealed the superior court's reversal of a probate-court judgment determining that Daniel Maggio owned a one-half interest in Vermont real property at his death. The Vermont Supreme Court affirmed.
STANDARD OF REVIEW	The court reviewed evidentiary rulings for abuse of discretion and questions of law de novo. It reviewed mixed questions of law and fact for correct application of the legal standard and support in the factual findings, and factual determinations for clear error, sustaining them if supported by credible evidence.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Rosann Maggio, widow and primary beneficiary of the estate of Daniel Maggio v. Paul Silas

TOPICS

ancillary probate probate procedure evidence best evidence rule statute of frauds

PRACTICE AREAS

probate partnerships evidence real property contracts

QUESTIONS PRESENTED

1. Whether the trial court violated the best evidence rule by admitting Rosann Maggio's interrogatory answers instead of the original partnership-dissolution agreement.
2. Whether Vermont's dead man's statutes barred Rosann Maggio, a nonparty to the partnership agreement, from offering interrogatory answers favorable to Silas.
3. Whether party-opponent admissions under V.R.E. 801(d)(2)(A) are subject to V.R.E. 602's personal-knowledge requirement.
4. Whether the Holland property was partnership property despite being titled to Silas and Maggio as tenants in common.
5. Whether sufficient evidence supported the conclusion that Maggio relinquished his partnership interest, including his interest in the Holland property, to Silas upon dissolution.
6. Whether the statute of frauds required a writing for Maggio's transfer of his partnership interest to Silas.
7. Whether the trial court erred by applying Connecticut partnership law without first notifying the parties.

HOLDINGS

1. The best evidence rule did not bar Rosann Maggio's interrogatory answers because they were offered to establish the resulting facts of the partnership dissolution, not to prove the contents or operative terms of a written dissolution agreement.
2. Vermont's dead man's statutes did not disqualify Rosann Maggio's interrogatory answers because she was not a surviving party to the partnership-dissolution agreement and her testimony was not offered in her own favor.
3. V.R.E. 801(d)(2)(A) permits admission of a party-opponent's statement without regard to whether the statement is based on personal knowledge; therefore, Rosann Maggio's interrogatory answers were not subject to V.R.E. 602's personal-knowledge requirement.
4. The Holland property was partnership property because the evidence established that it was acquired with partnership funds, and the deed's tenancy-in-common language did not, as a matter of law, overcome the statutory presumption.
5. Sufficient evidence supported the conclusion that Maggio relinquished his partnership interest, including his interest in the Holland property, to Silas when the partnership dissolved.
6. The statute of frauds did not require a writing for Maggio's relinquishment of his partnership interest to Silas, even though the partnership owned real property, because a partner's interest in the partnership is personal property.

7. The trial court's reliance on Connecticut partnership law did not warrant reversal because the court subsequently determined that the same result followed under Vermont law.

KEY QUOTATIONS

“For the above reasons, we conclude that V.R.E. 801(d)(2)(A) allows the admission of party-opponent admissions without regard to whether the admission is based on personal knowledge.” (¶ 27)

“Although the language in a deed may be a factor supporting a court’s finding that property acquired with partnership funds was not intended to be treated as partnership property, we reject the notion that, as a matter of law, deed language trumps a court’s finding that property was acquired with partnership funds.” (¶ 30)

“The pivotal distinction is between a transaction that constitutes a conveyance of an interest in a partnership, which is personal property regardless of whether the partnership assets thereby conveyed include real property, and a transaction that is a conveyance of the real property itself.” (¶ 40)

FACTUAL BACKGROUND

Daniel Maggio and Paul Silas operated a Connecticut business partnership. In 1989, partnership funds were used to acquire eight lots in Holland, Vermont; although the property was initially conveyed to Silas, it was later conveyed to Silas and Maggio as tenants in common. The partnership ended in 1991, Maggio died in 1994, and the parties later disputed whether the estate retained an interest in the property or its sale proceeds. The trial evidence included the deed, promissory note, partnership tax returns, and Rosann Maggio's sworn interrogatory answers stating that Maggio received \$15,000 at dissolution and Silas received everything else.

PROCEDURAL HISTORY

Paul Silas brought a probate action under 14 V.S.A. § 1801 to clear title to Holland, Vermont property. After the parties agreed to sell the property and convert their interests to cash, the matter proceeded as an ancillary intestate proceeding. The probate court ruled for Daniel Maggio's estate, but the superior court reversed after a bench trial, finding that the property was partnership property and that Daniel Maggio relinquished his interest when the partnership dissolved. Rosann Maggio appealed, and the Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Jipac, N.V. v. Silas, 174 Vt. 57, 800 A.2d 1092 (2002)
- Billings v. Billings, 2011 VT 116, 190 Vt. 487, 35 A.3d 1030
- Garbitelli v. Town of Brookfield, 2011 VT 122, 38 A.3d 1133
- Chevalier v. Dir. of Revenue, 928 S.W.2d 388 (Mo. Ct. App. 1996)
- People v. Tharpe-Williams, 676 N.E.2d 717 (Ill. App. Ct. 1997)
- Vreeland v. Essex Lock & Mfg. Co., 135 Vt. 1, 370 A.2d 1294 (1976)

- Don Lloyd Builders, Inc. v. Paltrow, 133 Vt. 79, 330 A.2d 82 (1974)
- Lavalette v. Noyes, 124 Vt. 353, 205 A.2d 413 (1964)
- In re Estate of Farr, 150 Vt. 196, 552 A.2d 387 (1988)
- Bemis v. Lamb, 135 Vt. 618, 383 A.2d 614 (1978)
- Proulx v. Parrow, 115 Vt. 232, 56 A.2d 623 (1948)
- Grenafege v. Department of Employment Security, 134 Vt. 288, 357 A.2d 118 (1976)
- Union Mut. Life Ins. Co. v. Chrysler Corp., 793 F.2d 1 (1st Cir. 1986)
- United States v. Ammar, 714 F.2d 238 (3d Cir. 1983)
- United States v. Anudu, Nos. 92-5756 et al., 1996 WL 67214 (4th Cir. Feb. 16, 1996)
- United States v. Lindemann, 85 F.3d 1232 (7th Cir. 1996)
- United States v. McLernon, 746 F.2d 1098 (6th Cir. 1984)
- Mahlandt v. Wild Canid Survival & Research Center, Inc., 588 F.2d 626 (8th Cir. 1978)
- Adams v. Adams, 2005 VT 4, 177 Vt. 448, 869 A.2d 124
- Stamato v. Quazzo, 139 Vt. 155, 423 A.2d 1201 (1980)
- In re Margaret Susan P., 169 Vt. 252, 733 A.2d 38 (1999)
- Diranian v. Diranian, 773 N.E.2d 462 (Mass. App. Ct. 2002)
- Crowe v. Smith, 603 So. 2d 301 (Miss. 1992)
- Matter of Estate of Palmer, 708 P.2d 242 (Mont. 1985)
- Eckert v. Eckert, 425 N.W.2d 914 (N.D. 1988)
- Rooney v. Rooney, 158 Vt. 643, 605 A.2d 520 (1992)
- Thompson v. Dewey's South Royalton, Inc., 169 Vt. 274, 733 A.2d 65 (1999)
- Gorelick v. Montanaro, 990 A.2d 371 (Conn. App. Ct. 2010)
- Forward v. Beucler, 702 F. Supp. 582 (E.D. Va. 1988)
- Beach v. Anderson, 417 N.W.2d 709 (Minn. Ct. App. 1988)
- Malaty v. Malaty, 944 N.Y.S.2d 591 (N.Y. App. Div. 2012)
- Potter v. Homestead Preservation Ass'n, 412 S.E.2d 1 (N.C. 1992)
- Wirth v. Sierra Cascade, LLC, 230 P.3d 29 (Or. Ct. App. 2010)
- Quimby v. Myers, 2005 VT 123, 179 Vt. 611, 895 A.2d 128 (mem.)