NEBRASKA SUPREME COURT

Junker v. Carlson

300 Neb. 423 (2018) · No. No. S-17-356 · Decided July 6, 2018

SUMMARY

The Nebraska Supreme Court affirmed the dismissal of claims seeking constructive trusts against a property buyer and tenants who had dealt with a trustee. The court held that the buyer acted in good faith and was protected under Neb. Rev. Stat. § 30-38,101, while the claimants failed to prove that the tenants were unjustly enriched or knowingly participated in a breach of trust.

CASE DETAILS

COURT	Nebraska Supreme Court
WRITING FOR THE COURT	Cassel, J.; Heavican, C.J.; Miller-Lerman, J.; Stacy, J.; Funke, J.
JURISDICTION	Nebraska
DECIDED	July 6, 2018
DOCKET	No. S-17-356
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claimants appealed after the district court dismissed their claims seeking constructive trusts and related equitable relief against a buyer and tenants involved in transactions concerning trust property.
STANDARD OF REVIEW	Because the action sought to impose a constructive trust, it was equitable. The appellate court therefore reviewed factual questions de novo on the record and independently decided questions of fact and law, while considering and potentially giving weight to the trial court's assessment of conflicting credible evidence based on its observation of witnesses.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion
PARTIES	Debra J. Junker, Lynn P. Carlson, Dale E. Carlson, Carol A. Carlson, Mike Carlson v. Elwyn Carlson, Joel Carlson, SLS Partners, Michael Carlson, also known as Mike Carlson

TOPICS

constructive trust · unjust enrichment · breach of trust · equitable relief · appellate procedure

PRACTICE AREAS

trusts and estates | equity | real estate | contracts | appellate procedure

QUESTIONS PRESENTED

1. Whether the claims seeking restitution and unjust enrichment were equitable claims for imposition of a constructive trust and therefore subject to de novo appellate review on the record.
2. Whether SLS Partners could be subjected to a constructive trust when it purchased trust property without knowledge that the trustee was exceeding or improperly exercising trust powers.
3. Whether the tenants were unjustly enriched by receiving $152,000 to relinquish their lease and whether they knew that the trust lacked authority to extend the lease.
4. Whether the claimants could raise duress and coercion for the first time on appeal.

HOLDINGS

1. Claims for restitution and unjust enrichment that seek to have money held in trust are grounded in an action to impose a constructive trust, which is equitable and is reviewed de novo on the record.
2. A buyer who in good faith and for value deals with a trustee, without knowledge that the trustee is exceeding or improperly exercising the trustee's powers, is protected from liability under Neb. Rev. Stat. § 30-38,101.
3. The tenants were not shown to have been unjustly enriched by the $152,000 payment for relinquishing their extended lease, and the evidence was insufficient to establish that they knew the trust did not own the property or that the trustee lacked authority to extend the lease.
4. The appellate court will not consider arguments or theories that were not raised in the trial court.

KEY QUOTATIONS

> *"A constructive trust is a relationship, with respect to property, subjecting the person who holds title to the property to an equitable duty to convey it to another on the ground that his or her acquisition or retention of the property would constitute unjust enrichment."* (428)

> *"Regardless of the nature of the property upon which a constructive trust is imposed, a party seeking to establish the trust must prove by clear and convincing evidence that the individual holding the property obtained title to it by fraud, misrepresentation, or an abuse of an influential or confidential relationship and that under the circumstances, such individual should not, according to the rules of equity and good conscience, hold and enjoy the property so obtained."* (428)

> *"Because Buyer dealt in good faith with Trustee and had no reason to believe they participated in a breach of trust, Buyer was protected under § 30-38,101."* (431)

FACTUAL BACKGROUND

In 1997, Dale and Carol Carlson conveyed real estate, including farmland and a residence, to a trust intended to benefit their children. The property was later held by the Aebeskiver Company Trust, whose trustee sold it to

SLS Partners under a sale-leaseback arrangement while Joel and Elwyn Carlson held a lease on the farmland. The trust later repurchased the property and paid the tenants $152,000 to relinquish an extended lease. The grantors and beneficiaries alleged that the buyer and tenants participated in breaches of trust and were unjustly enriched.

PROCEDURAL HISTORY

The claimants filed suit alleging that the buyer and tenants knowingly participated in breaches of the trustee's fiduciary duties and were unjustly enriched. After a bench trial, the District Court for Kearney County dismissed the claims, concluding that the buyer and tenants were protected under Neb. Rev. Stat. § 30-38,101 as third parties dealing in good faith with a trustee. The Nebraska Supreme Court moved the appeal to its docket and affirmed.

DISPOSITION

affirmed

CASES CITED

- Manker v. Manker, 263 Neb. 944, 644 N.W.2d 522 (2002)
- In re Claims Against Pierce Elevator, 291 Neb. 798, 868 N.W.2d 781 (2015)
- Estates at Prairie Ridge Homeowners Assn. v. Korth, 298 Neb. 266, 904 N.W.2d 15 (2017)
- O'Connor v. Kearny Junction, 295 Neb. 981, 893 N.W.2d 684 (2017)
- United Gen. Title Ins. Co. v. Malone, 289 Neb. 1006, 858 N.W.2d 196 (2015)
- Bend v. Marsh, 145 Neb. 780, 18 N.W.2d 106 (1945)
- Tolbert v. Jamison, 281 Neb. 206, 794 N.W.2d 877 (2011)