

DISTRICT COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT

Stefano Versace, an individual, Bruno Versace, an individual, and Robert Re, an individual v. Uruven, LLC, a Florida limited liability company

No. 4D21-2311, 2022 WL 12684540 (Fla. 4th DCA Oct. 12, 2022) · No. 4D21-2311

SUMMARY

The Florida Fourth District Court of Appeal held that an express designation on a bank signature card that an account is held as a tenancy by the entireties between spouses conclusively establishes that form of ownership, shielding the account from garnishment for the individual debt of one spouse. Under ****Beal Bank, SSB v. Almand & Associates****, 780 So. 2d 45 (Fla. 2001), and ****Florida Statute § 655.79(1)****, such an express designation ends the inquiry into ownership, and the common law unities need not be examined. The court reversed the trial court's garnishment order as to that account but affirmed garnishment of other jointly held accounts.

CASE DETAILS

COURT	District Court of Appeal of Florida, Fourth District
WRITING FOR THE COURT	Warner, J.; Warner; May; Ciklin
JURISDICTION	Florida
DOCKET	4D21-2311
DISPOSITION	affirmed in part; reversed in part; and remanded with instructions
PROCEDURAL POSTURE	Appeal from a trial court order granting garnishment of a bank account claimed as exempt tenants by the entireties.
STANDARD OF REVIEW	de novo
PRECEDENTIAL VALUE	precedential
PARTIES	Stefano Versace, Bruno Versace, Robert Re v. Uruven, LLC

TOPICS

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QUESTIONS PRESENTED

1. Whether a bank account expressly designated on the signature card as held by husband and wife as tenants by the entirety is subject to garnishment for the individual debt of one spouse.
2. Whether the trial court erred in allowing garnishment of two other accounts held jointly with right of survivorship with other parties.

HOLDINGS

1. An express designation on a bank signature card that an account is held as a tenancy by the entirety ends the inquiry as to the form of ownership and shields the account from garnishment for the individual debt of one spouse; the common law unities need not be examined when there is an express designation.
2. In the absence of a transcript, the appellate court must accept the trial court's rulings as supported by the evidence and affirm.

KEY QUOTATIONS

"Although we recede from Hector Supply Co., we agree with the statement in Hector Supply Co. that an express designation on the signature card that the account is held as a tenancy by the entirety ends the inquiry as to the form of ownership."

"The language in Beal Bank is clear and direct. The express designation of a tenancy by the entirety on a signature card of a bank account establishes the account as such, and no further inquiry should be made."

"Creation of a tenancy by the entirety requires the unities of possession, interest, title, time, as well as survivorship and marriage."

"Over the past fifty years, Florida jurisprudence has continued to struggle with the application of common law real property ownership concepts to modern banking relationships. . . . Indeed, jurists and legal commentators have labeled the law regarding tenancies by the entirety in personal property to be "relatively conflicting and confusing" and "a state of morass.""

FACTUAL BACKGROUND

Appellee Uruven, LLC obtained a judgment against Stefano Versace and sought garnishment of his bank accounts. Bank of America identified three accounts, including one designated on the signature card as held by Stefano Versace and his wife as tenants by the entirety. The wife originally opened the account individually; a few years later, both spouses signed a new signature card expressly designating the account as tenants by the entirety. The trial court allowed garnishment of this account over appellant's exemption claim.

PROCEDURAL HISTORY

Appellee obtained a judgment against appellant and secured the issuance of a writ of garnishment against Bank of America. The bank answered that it had three accounts in appellant's name, including an account in the name of appellant and his wife. Appellant filed a claim of exemption and motion to dissolve the writ as to that account, claiming the account was held as tenants by the entirety. The trial court rejected the claim and allowed garnishment of all accounts. Appellant appeals that order.

DISPOSITION

affirmed in part; reversed in part; and remanded with instructions

REMAND INSTRUCTIONS

Reverse the trial court's issuance of the writ of garnishment as to the account held as a tenancy by the entirety between appellant and his wife; affirm the order allowing garnishment of the accounts held jointly with others.

CASES CITED

- Beal Bank, SSB v. Almand and Associates, etc., et al., Beal Bank, SSB v. Almand and Associates, 780 So. 2d 45 (Fla. 2001)
- Kane v. Stewart Tilghman Fox & Bianchi, P.A., 197 So. 3d 137 (Fla. 4th DCA 2016)
- Arnold, Matheny & Eagan, P.A. v. First Am. Holdings, Inc., 982 So. 2d 628 (Fla. 2008)
- Morse v. Kohl, Metzger, Spotts, P.A., 725 So. 2d 436 (Fla. 4th DCA 1999)
- Sheeler v. United States Bank of Seminole, 283 So. 2d 566 (Fla. 4th DCA 1973)
- Hector Supply Co. v. Carter, 254 So. 2d 781 (Fla. 3d DCA 1971)
- Applegate v. Barnett Bank of Tallahassee, 377 So. 2d 1150 (Fla. 1979)
- Beal Bank, SSB v. Almand & Associates, 710 So. 2d 608 (Fla. 5th DCA 1998)

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