

DISTRICT OF COLUMBIA COURT OF APPEALS

In re Estate of Marguerite L. Corsetti

928 A.2d 691 (D.C. 2007) · No. Nos. 06-PR-1477, 07-PR-415 · Decided July 26, 2007

SUMMARY

The District of Columbia Court of Appeals held that orders striking a post-judgment certification under Super. Ct. Civ. R. 54-I(a), including orders denying timely reconsideration, are final and appealable. The court clarified that its jurisdiction was supported by *Del Rosario v. Wang* rather than the previously cited probate rule governing intervention proceedings, and allowed the consolidated appeals to proceed.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Blackburne-Rigsby, Associate Judge; Nebeker, Senior Judge; Terry, Senior Judge
JURISDICTION	District of Columbia
DECIDED	July 26, 2007
DOCKET	Nos. 06-PR-1477, 07-PR-415
DISPOSITION	other
PROCEDURAL POSTURE	The District of Columbia Court of Appeals consolidated an appeal from an order admitting Marguerite Corsetti's will to probate with an appeal by the estate's personal representative and trustees from an order striking as untimely a witness-certification filing under Super. Ct. Civ. R. 54-I. The appellee moved for reconsideration or clarification of the court's prior order discharging an order to show cause concerning whether the second appeal was taken from a nonfinal, nonappealable order.
STANDARD OF REVIEW	The court reviewed its appellate jurisdiction and the finality and appealability of the challenged probate-related order as questions of law.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Luke De Iuliis, Paul Arient v. Mario Segreti

TOPICS

appellate jurisdiction

final judgment rule

probate procedure

appellate procedure

probate

PRACTICE AREAS

Probate

Appellate procedure

Civil procedure

Trusts

QUESTIONS PRESENTED

1. Whether Superior Court Probate Rule 8(d)(2) provided a basis for appellate jurisdiction over the fiduciaries' appeal.
2. Whether the underlying matter was an intervention proceeding to which Probate Rule 8(d)(2) applied.
3. Whether an order striking a post-judgment Super. Ct. Civ. R. 54-I(a) certification, including an order denying reconsideration of that ruling, is final and appealable.
4. Whether the Court of Appeals should reconsider or clarify its prior order discharging the show-cause order concerning appellate jurisdiction.

HOLDINGS

1. Probate Rule 8(d)(2), which permits an appeal from an order limiting the rights of fiduciaries, is limited to intervention proceedings and did not provide the jurisdictional basis for these appeals because the case was not brought under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act.
2. An order striking a post-judgment Super. Ct. Civ. R. 54-I(a) certification is final and appealable, including an order denying a timely request for reconsideration.

KEY QUOTATIONS

“Under these principles, we now hold that orders striking a post-judgment Super. Ct. Civ. R. 54-I(a) certification are final and appealable.” (693)

“The issue is not one of jurisdiction, but rather of the appropriate scope of review” (693)

FACTUAL BACKGROUND

Marguerite Corsetti's grandson, Mario Segreti, challenged her testamentary capacity, and the Superior Court admitted her will to probate. Corsetti's personal representative and trustees, Luke De Iuliis and Paul Arient, filed a witness certification under Super. Ct. Civ. R. 54-I to recover costs incurred in defending the challenge. The trial court struck the certification as untimely and denied reconsideration.

PROCEDURAL HISTORY

The Superior Court admitted Corsetti's will to probate. After the estate's fiduciaries filed a witness certification to recover litigation costs, the trial court struck the certification as untimely and denied the fiduciaries' timely motion for reconsideration. The Court of Appeals initially directed the fiduciaries to show cause why their appeal should not be dismissed as arising from a nonfinal order, then discharged the show-cause order and

consolidated the appeals. In this opinion, the court denied reconsideration, granted clarification, and explained the jurisdictional basis for the second appeal.

DISPOSITION

other

REMAND INSTRUCTIONS

The consolidated appeals were to proceed to briefing and argument or submission in the usual manner. The June 12, 2007 order discharging the show-cause order remained in effect.

CASES CITED

- Del Rosario v. Wang, 804 A.2d 292 (D.C. 2002)
- Panos v. Nefflen, 205 A.2d 600, 602 (D.C. 1964)

OPINION

In Re Estate of Corsetti 928 A.2d 691

PER CURIAM.

928 A.2d 691 (2007) In re ESTATE OF Marguerite L. CORSETTI, Luke De Iuliis and Paul Arient, Appellants. Nos. 06-PR-1477, 07-PR-415. District of Columbia Court of Appeals. July 26, 2007.

*692 Michael B. McGovern, Washington, DC, was on the appellee's motion for reconsideration or clarification.

Lois R. Goodman and Charles S. Vizzini, Washington, DC, were on the appellants' response. Before BLACKBURNE-RIGSBY, Associate Judge, and NEBEKER and TERRY, Senior Judges. PER CURIAM: On October 17, 2006, the Superior Court issued an order admitting the will of Marguerite Corsetti to probate. Ms. Corsetti's grandson, Mario Segreti, who had challenged her capacity to make the will, then noted appeal No. 06-PR-1477. After the will was admitted to probate, Luke De Iuliis and Paul Arient, the personal representative and trustees of Ms. Corsetti's estate, filed a witness certification under Super. Ct. Civ. R. 54-I in order to recoup some of the costs the estate had incurred in defending against Mr. Segreti's challenge. Mr. Segreti filed a motion to strike that certification as untimely, and the trial court granted his motion on December 29, 2006. Mr. De Iuliis and Mr. Arient filed a timely motion for reconsideration on January 17, 2007, but it too was denied, and so they filed appeal No. 07-PR-415 on March 2, 2007. However, we subsequently directed them to show cause why that appeal should not be dismissed as having been taken from a non-final and non-appealable order. Their response was persuasive, and we discharged the show cause order and consolidated the two appeals on June 12, 2007. The discharge order cited Super. Ct. Prob. R. 8(d)(2) and Del Rosario v. Wang, 804 A.2d 292 (D.C.2002). Mr. Segreti now asks that we either reconsider or clarify that decision, contending that neither authority justifies this court's exercise of jurisdiction. Because he is correct with respect to

the first citation, but not the second, we will deny the motion for reconsideration and grant the motion for clarification (by way of this opinion which identifies the basis of our jurisdiction). Superior Court Probate Rule 8(d)(2) permits an appeal to be taken from any order that limits the rights of fiduciaries. Because the appellants are fiduciaries of the estate and cited this rule in their notice of appeal, we concluded that it was applicable. But Mr. Segreti has since correctly pointed out that the rule is limited to "intervention proceedings." The appellants argue that the underlying case is such a proceeding because it involved an attack on a trust in addition to a will. Their argument is not persuasive. Subpart I of the Probate Rules clearly defines an intervention proceeding as one "filed under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act." This case was not brought under that statute; it involves an inter vivos trust, and Mr. Segreti is correct that we did not intend to apply probate rules intended for appeals of intervention orders to this matter. However, his reading of our decision in Del Rosario is too limited. In that case, we were presented solely with a post-trial award of costs and we addressed the question of jurisdiction as an initial *693 matter because this court had long ago said: "it is generally held that no appeal lies from a judgment respecting costs only." [1] This statement has been repeatedly cited as the controlling rule ever since. Del Rosario is unique, however, because it examined the rule in light of the authorities cited in support of the proposition. The opinion noted that the statement really means this court may not, in considering an award of costs, reach back to consider further the merits of the underlying judgment. [2] The issue is not one of jurisdiction, but rather of the appropriate scope of review and "a challenge to the trial court's statutory authority to award particular costs lies clearly within this court's power to review." [3] Under these principles, we now hold that orders striking a post-judgment Super. Ct. Civ. R. 54-I(a) certification are final and appealable. [4] Because that certification must be filed within a specified amount of time [5] before a litigant may recover statutorily authorized costs, [6] trial court decisions which effectively foreclose that recovery fall within this court's review authority as identified by Del Rosario. Accordingly, our June 12, 2007, order discharging the show cause order shall stand. These cases shall proceed to briefing and argument or submission in the usual manner. So ordered.

NOTES

[1] Panos v. Nefflen, 205 A.2d 600, 602 (D.C. 1964).

[2] Del Rosario, 804 A.2d at 294.

[3] Id.

[4] Including, as here, orders that deny a timely request for "reconsideration."

[5] Five days after the entry of a final order or judgment. Super. Ct. Civ. R. 54-I(a).

[6] A prevailing party may recover witness fees under D.C.Code § 15-714(b) (2001).