

DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

Guelman v. De Guelman

453 So. 2d 1159 (Fla. Dist. Ct. App. 1984) · No. No. 83-1141 · Decided July 17, 1984

SUMMARY

The Florida Third District Court of Appeal affirmed a probate court's determination that the decedent's marriage, entered into in Bolivia in 1971, was valid and that the decedent and his wife were domiciled in Florida at the time of his death. The court relied on presumptions favoring the validity of marriage and the correctness of a trial court's interpretation of foreign law when supported by expert opinion.

CASE DETAILS

COURT	District Court of Appeal of Florida, Third District
WRITING FOR THE COURT	Schwartz, C.J.; Barkdull, J.; Daniel S. Pearson, J.
JURISDICTION	Florida
DECIDED	July 17, 1984
DOCKET	No. 83-1141
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a final order of the trial court's probate division determining that the decedent's marriage, entered into in Bolivia, was valid and that the decedent and his wife were domiciled in Florida at the time of death.
STANDARD OF REVIEW	The appellate court sustained the trial court's interpretation of foreign law because it was consistent with an expert's interpretation, notwithstanding disagreement with that expert opinion.
PRECEDENTIAL VALUE	Published appellate opinion
PARTIES	Lilianan Guelman, Lidia Guelman v. Elba Formento De Guelman, Steven Brotman, as Personal Representative of the Estate of Mario Guelman, Deceased

TOPICS

- probate
- marriage
- estate administration
- probate procedure
- family law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the probate court properly interpreted Bolivian law in determining that the decedent's 1971 marriage was valid.
2. Whether the probate court properly determined that the decedent and his wife were domiciled in Florida at the time of the decedent's death.

HOLDINGS

1. A trial court's interpretation of the law of a foreign country will be sustained when it is consistent with the interpretation given by an expert on that foreign law, even if the expert's opinion is disputed.
2. A marriage is presumed valid, including when the marriage was performed in a foreign jurisdiction.
3. The probate court did not err in finding that the marriage was validly entered into in Bolivia in 1971 and that the decedent and his wife were domiciled in Florida at the time of the decedent's death in 1976.

KEY QUOTATIONS

“A trial court will be sustained in its interpretation of the law of a foreign country if its interpretation is consistent with that given by an expert on the law of such foreign jurisdiction, even though such expert opinion may be in dispute.” (1160)

“In light of the above, we find no error in the trial court (probate division) finding that the marriage was validly entered into in Bolivia in 1971 and that the decedent and his wife were domiciled in Florida at the time of the death of the decedent in 1976.” (1160)

FACTUAL BACKGROUND

The decedent married Elba Formento De Guelman in Bolivia in 1971. The probate court determined that the marriage was valid under Bolivian law and that the decedent and his wife were domiciled in Florida when the decedent died in 1976. The appellate court reviewed and affirmed those findings.

PROCEDURAL HISTORY

The probate division found that the decedent validly married Elba Formento De Guelman in Bolivia in 1971 and that the decedent and his wife were domiciled in Florida when he died in 1976. The appellants sought review of the final order, and the District Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- In Re: Evers' Estate, 160 Fla. 225, 34 So. 2d 561 (1948)

- Mori v. Matsushita Electric Corporation of America, 380 So. 2d 461 (Fla. 3d DCA 1980)
- Clausi v. Casner Motors, Inc., 112 So. 2d 587 (Fla. 3d DCA 1959)
- Teel v. Nolen Brown Motors, Inc., 93 So. 2d 874 (Fla. 1957)
- In Re Estate of Lee, 360 So. 2d 1111 (Fla. 3d DCA 1978)
- Grace v. Grace, 162 So. 2d 314 (Fla. 1st DCA 1964)
- In Re Estate of Marden, 355 So. 2d 121 (Fla. 3d DCA 1978)
- State v. Lawrence, 120 Fla. 836, 163 So. 231 (1935)
- Hillsborough County Aviation Authority v. Taller & Cooper, Inc., 245 So. 2d 100 (Fla. 2d DCA 1971)
- Hunter v. Carmichael, 133 So. 2d 584 (Fla. 2d DCA 1961)
- Ogden v. Ogden, 159 Fla. 604, 33 So. 2d 870 (1947)
- Minick v. Minick, 111 Fla. 469, 149 So. 483 (1933)
- Walker v. Harris, 398 So. 2d 955 (Fla. 4th DCA 1981)

OPINION

PER CURIAM.

453 So.2d 1159 (1984) Lilianan GUELMAN and Lidia Guelman, Appellants, v. Elba Formento DE GUELMAN, and Steven Brotman, As Personal Representative of the Estate of Mario Guelman, Deceased, Appellees. No. 83-1141. District Court of Appeal of Florida, Third District. July 17, 1984. Rehearing Denied August 17, 1984. *1160 Fink & Golden and Richard Fink, Miami, for appellants.

Englander & Burnett and Malvin Englander, Miami Beach, for appellees. Before SCHWARTZ, C.J., and BARKDULL and DANIEL S. PEARSON, JJ. PER CURIAM. A trial court will be sustained in its interpretation of the law of a foreign country if its interpretation is consistent with that given by an expert on the law of such foreign jurisdiction, even though such expert opinion may be in dispute.

In Re: Evers' Estate, 160 Fla. 225, 34 So.2d 561 (1948); Mori v. Matsushita Electric Corporation of America, 380 So.2d 461 (Fla. 3d DCA 1980); Clausi v. Casner Motors, Inc., 112 So.2d 587 (Fla. 3d DCA 1959). A marriage is presumed valid. Teel v. Nolen Brown Motors, Inc., 93 So.2d 874 (Fla. 1957); In Re Estate of Lee, 360 So.2d 1111 (Fla. 3d DCA 1978); Grace v. Grace, 162 So.2d 314 (Fla.

1st DCA 1964); Accord: In Re Estate of Marden, 355 So.2d 121 (Fla. 3d DCA 1978). It is presumed that an official performing a marriage service, whether in a foreign or domestic jurisdiction would not have performed the service if there was any known impediment to the marriage. See and Compare: State v. Lawrence, 120 Fla. 836, 163 So. 231 (1935); Hillsborough County Aviation Authority v. Taller & Cooper, Inc., 245 So.2d 100 (Fla.

2d DCA 1971); *Hunter v. Carmichael*, 133 So.2d 584 (Fla. 2d DCA 1961). In light of the above, we find no error in the trial court (probate division) finding that the marriage was validly entered into in Bolivia in 1971 and that the decedent and his wife were domiciled in Florida at the time of the death of the decedent in 1976. *Ogden v. Ogden*, 159 Fla. 604, 33 So.2d 870 (1947); *Minick v. Minick*, 111 Fla. 469, 149 So.

483 (1933); *Walker v. Harris*, 398 So.2d 955 (Fla. 4th DCA 1981); *In Re Estate of Lee*, *supra*; *Grace v. Grace*, *supra*. Therefore the final order under review is hereby affirmed. Affirmed.