

CALIFORNIA COURT OF APPEAL, SECOND DISTRICT, DIVISION ONE

Burgess v. Bohle

63 Cal. App. 2d 135 (Cal. Ct. App. 1944) · No. Civ. No. 14327 · Decided March 2, 1944

SUMMARY

The California Court of Appeals considered whether Annie B. Hull’s will was procured through undue influence by Martin F. Bohle, who was a beneficiary and executor. The court held that the contestants failed to present sufficient evidence of direct pressure or activity overcoming the testatrix’s free agency, and affirmed the orders granting nonsuit and admitting the will to probate.

CASE DETAILS

COURT	California Court of Appeal, Second District, Division One
WRITING FOR THE COURT	White, J.; York, P. J.; Doran, J.
JURISDICTION	California
DECIDED	March 2, 1944
DOCKET	Civ. No. 14327
DISPOSITION	affirmed
PROCEDURAL POSTURE	Contestants appealed from an order granting a nonsuit at the conclusion of their case in a will contest and from the order admitting the will to probate.
STANDARD OF REVIEW	On appeal from a nonsuit, the evidence must be viewed in the light most favorable to the contestants, conflicts must be disregarded, and credit must be given only to evidence tending to support the contest. The question was whether the contestants presented a prima facie case sufficient to avoid nonsuit.
PRECEDENTIAL VALUE	Published California Court of Appeal opinion
PARTIES	Alexina P. Burgess, Hollywood Congregational Church v. Martin F. Bohle, as Executor

TOPICS

- will contests
- undue influence
- probate procedure
- estate litigation
- evidence

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the contestants presented sufficient evidence of undue influence to establish a prima facie case and avoid a nonsuit.
2. Whether a confidential relationship, opportunity to influence, and the beneficiary's substantial benefit, without evidence of direct pressure or active participation in procuring the will, were sufficient to shift the burden to the will's proponent.
3. Whether the trial court erred by admitting the will to probate after granting nonsuit.

HOLDINGS

1. The contestants did not present sufficient evidence of undue influence to avoid nonsuit. A confidential relationship and an opportunity or motive to influence do not invalidate a will without evidence that pressure operated directly on the testator's testamentary act.
2. The burden does not shift to the proponent merely because one or more suspicious circumstances exists. Before the proponent must show freedom from undue influence, the evidence must establish a combination of four circumstances: an opportunity to control the testamentary act, a condition permitting subversion of free will, activity by the alleged influencer, and an undue benefit under the will.
3. The trial court properly granted nonsuit and admitted the contested will to probate because the evidence could not support a verdict for the contestants.

KEY QUOTATIONS

“mere proof of opportunity to influence the mind of the testatrix, even though shown to be coupled with an interest, or a motive to do so, does not sustain a finding of undue influence in the absence of testimony showing that there was pressure operating directly on her testamentary act.” (141)

“Before there is imposed upon the proponent of a will the obligation of presenting evidence of volition, and before the question as to undue influence becomes one of fact for determination by a jury or the court sitting without a jury, there must be evidence, the probative force of which establishes (1) the relations between the one charged with exercising the undue influence and the decedent, affording the former an opportunity to control the testamentary act; (2) that the decedent's condition was such as to permit of a subversion of her freedom of will; (3) that there was activity on the part of the person charged with exercising undue influence, and (4) that such person unduly profited as beneficiary under the will.” (142)

“The burden was on the contestants to show undue influence, and in meeting that obligation it is not sufficient for them merely to show circumstances consistent with the exercise of undue influence, but before a duly and solemnly executed will can be invalidated, circumstances must be shown that are inconsistent with freedom of action on the part of the testatrix.” (144)

FACTUAL BACKGROUND

Annie B. Hull, a 78-year-old widow, executed a will on March 26, 1943, leaving \$500 to her sister and the residue of an approximately \$7,500 estate to Martin F. Bohle, a nonrelative who was also named executor. Bohle had roomed with Hull, taken meals with her, received substantial sums of money from her, acquired property with those funds, and assisted with her affairs. Hull was terminally ill, had previously made wills benefiting her sister and a church, and executed a general power of attorney in Bohle's favor on the same day as the disputed will. Bohle obtained the attorney who prepared the will at Hull's request, but he was absent during the attorney's consultation with Hull, and the evidence showed that the attorney obtained the will's terms from Hull herself.

PROCEDURAL HISTORY

Alexina P. Burgess and Hollywood Congregational Church contested Annie B. Hull's will before probate, alleging lack of testamentary capacity and undue influence and fraud by Martin F. Bohle. The trial court, sitting without a jury, granted Bohle's motion for nonsuit at the close of the contestants' evidence and admitted the will to probate. The California Court of Appeal affirmed both orders.

DISPOSITION

affirmed

CASES CITED

- Estate of Nolan, 25 Cal. App. 2d 738, 78 P.2d 456 (1938)
- Estate of Burns, 26 Cal. App. 2d 741, 80 P.2d 77 (1938)
- Estate of Graves, 202 Cal. 258, 259 P. 935 (1927)
- Estate of Hampton, 39 Cal. App. 2d 488, 103 P.2d 611 (1939)
- Estate of Bucher, 48 Cal. App. 2d 465, 120 P.2d 44 (1942)
- Estate of Miller, 16 Cal. App. 2d 154, 60 P.2d 498 (1936)
- Estate of Hartley, 137 Cal. App. 630, 31 P.2d 240 (1933)
- Estate of Arnold, 16 Cal. 2d 573, 107 P.2d 25 (1940)