COURT OF APPEALS OF INDIANA

In re the Estate of Henry A. Root, Deceased; Root et al. v. Blackwood, Executrix, et al., 120 Ind. App. 545

94 N.E.2d 489 (1950) · No. No. 18,005 · Decided October 17, 1950

SUMMARY

The Indiana Court of Appeals held that corporate stock owned by a decedent is personal property whose title vests in the executor upon appointment, rather than directly in minor legatees. The executor could not avoid responsibility by allowing the corporation to continue operating under the direction of others without court authorization, and the case was reversed for a new trial concerning the executor's and trustee's reports and the exceptions thereto.

CASE DETAILS

COURT	Court of Appeals of Indiana
WRITING FOR THE COURT	Martin, J.; Crumpacker, J. (not participating)
JURISDICTION	Indiana
DECIDED	October 17, 1950
DOCKET	No. 18,005
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a judgment approving the executor's report and the trustee's report, except as to Exhibit A. The appellants challenged conclusions of law and the denial of their motions for a new trial.
STANDARD OF REVIEW	The appellants challenged whether the decision was supported by sufficient evidence and whether it was contrary to law; the appellate court reviewed the trial court's special findings and conclusions of law.
PRECEDENTIAL VALUE	Published Indiana Court of Appeals opinion
PARTIES	Root et al. v. Blackwood, Executrix, et al., counselForAppellant

TOPICS

estate administration · probate procedure · probate · trusts · appellate procedure

PRACTICE AREAS

probate | estate administration | trust administration | appellate procedure

QUESTIONS PRESENTED

1. Whether title to the decedent's corporate stock vested in the executor or in the minor legatees upon the decedent's death.
2. Whether the executor was responsible for administering and accounting for the corporate stock and could avoid liability by delegating control to the guardian or the corporation without court authority.
3. Whether the reports of the executor and trustee should have been approved in light of the appellants' objections and exceptions.

HOLDINGS

1. Corporate stock is personal property, and title to it vested in the executor upon the executor's appointment rather than immediately in the minor legatees.
2. An executor cannot evade responsibility for estate assets by turning their administration over to a guardian or corporation without an order of court or legal authority.
3. An executor who continues the decedent's business without a court order or authority in the will does so at personal risk, is liable for losses sustained, and must account to the estate for profits.

KEY QUOTATIONS

> *"We hold that the title to said stock vested in the executor upon his appointment by the court, and the lower court's conclusion was reversible error."* (120 Ind. App. at 552)

> *"The executor as an officer of the court could not and cannot evade responsibility or liability by dealing with the assets of the trust without authority of the court and without authority of law."* (120 Ind. App. at 555)

> *"He chose instead, without any authority from either the court or will, to continue operation of the business through others, for a period of over four years and until said stock is now probably of no value."* (120 Ind. App. at 555)

FACTUAL BACKGROUND

Henry A. Root owned 290 of the 300 shares of the Root Manufacturing Company when he died testate in 1925, leaving the shares to his minor children. His executors reported the shares as estate property but never sold or distributed them under court order. Instead, the executors participated in directing the corporation's continued operation for more than four years, after which a trustee was appointed to liquidate the company and the stock was probably worthless.

PROCEDURAL HISTORY

The trial court made special findings without a jury and entered conclusions of law relieving the executor of responsibility for the decedent's corporate stock, reasoning that title vested in the minor legatees and that responsibility rested with their guardian. The appellants sought to charge the executor with the value and management of the stock and to charge the trustee with corporate assets and income. The Court of Appeals reversed and ordered the trial court to sustain the motions for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court was ordered to sustain each motion for a new trial and conduct a new trial of the issues presented by the executor's and trustee's reports and the exceptions thereto.

CASES CITED

- Citizens' Street Railway Co. v. Robbins, Administrator, 128 Ind. 449, 26 N.E. 116 (1891)
- Bickel v. Bibler, 109 Ind. App. 7, 32 N.E.2d 127 (1941)
- State ex rel. Department of Financial Institutions v. Kaufman, 218 Ind. 74, 30 N.E.2d 978 (1941)
- Reed, Administrator v. Brown, 215 Ind. 417, 19 N.E.2d 1015 (1939)
- Interstate Public Service Co. v. Weiss, Administrator, 208 Ind. 122, 193 N.E. 226 (1935)
- Weyer, Administrator v. Second National Bank of Franklin, 57 Ind. 198 (1877)
- Burwell v. Cawood, 2 How. 43 U.S. 559, 11 L.Ed. 378 (1844)
- Smith v. Ayer, 101 U.S. 320, 25 L.Ed. 955 (1880)
- Hart v. Anger, 38 La. Ann. 341 (1886)
- Brasfield v. French, 59 Miss. 632 (1882)
- Lucht v. Behrens, 28 Ohio St. 231, 22 Am. Rep. 378 (1876)

INSTRUCTIONS FOR AN AI ASSISTANT