

SUPREME COURT OF ALABAMA

Norvell v. Norvell

275 So. 3d 497 (Ala. 2018) · Decided October 19, 2018

SUMMARY

The Alabama Supreme Court reviewed a summary judgment arising from a dispute over an elderly mother's sale of lakefront property to one of her sons under a power of attorney. The court affirmed the judgment on the claims for intentional interference with inheritance expectancy and undue influence because the appellant waived challenges to the asserted ripeness ground. It reversed and remanded as to the declaratory-judgment, breach-of-fiduciary-duty, and conspiracy claims, holding that the alleged defect concerned real-party-in-interest or cause-of-action issues rather than standing.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Bryan, Justice; Stuart, C.J.; Parker, J.; Main, J.; Mendheim, J.
JURISDICTION	Alabama
DECIDED	October 19, 2018
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	William K. Norvell appealed from a summary judgment entered for Carter Norvell and Samuel Norvell in an action involving an alleged misuse of a power of attorney, the sale of estate property, and related inheritance and fiduciary-duty claims.
STANDARD OF REVIEW	De novo review of summary judgment; the appellate court applies the same standard as the trial court and determines whether the movant made a prima facie showing that no genuine issue of material fact exists and that the movant is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published Alabama Supreme Court opinion; precedential.
PARTIES	William K. Norvell v. Carter Norvell, Samuel Norvell

TOPICS

- summary judgment
- standing
- power of attorney
- probate procedure
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the circuit court properly entered summary judgment on William's intentional-interference-with-inheritance-expectancy and undue-influence claims when William failed to challenge on appeal the asserted ground that those claims were premature or unripe.
2. Whether William's claims for declaratory relief, breach of fiduciary duty, and conspiracy were subject to summary judgment for lack of standing in a private-law action.
3. Whether the subsequently filed probate-court proceeding required abatement of the earlier-filed circuit-court action under Ala. Code § 6-5-440.
4. Whether filing a petition for conservatorship relief in the probate court divested the circuit court of jurisdiction over William's declaratory-judgment claim concerning the power of attorney.

HOLDINGS

1. When a trial court does not specify the basis for summary judgment and the appellant fails to challenge an asserted alternative ground supporting the judgment, the appellant waives any argument concerning that ground, and the judgment must be affirmed on the affected claims.
2. A defendant's contention that a plaintiff is asserting another person's rights generally presents a real-party-in-interest or cause-of-action issue, not a standing issue, in a private-law action. Such an alleged defect does not by itself deprive the trial court of subject-matter jurisdiction.
3. Summary judgment was improper on William's declaratory-judgment, breach-of-fiduciary-duty, and conspiracy claims because the defendants failed to establish their asserted standing ground as a matter of law.
4. Under Ala. Code § 6-5-440, a second-filed action cannot serve as a defense in abatement to an earlier-filed action.
5. The filing of a probate-court petition seeking appointment of a conservator did not divest the circuit court of jurisdiction over William's declaratory-judgment claim concerning alleged misconduct under the power of attorney.

KEY QUOTATIONS

"In order to secure a reversal, 'the appellant has an affirmative duty of showing error upon the record.'" (502)

"The concept of standing implicates a court's subject-matter jurisdiction." (504)

"There is, however, no 'standing' problem." (505)

"Even though the trial court's reason for entering a summary judgment in favor of [the defendants] was flawed, 'we can affirm a summary judgment on any valid legal ground presented by the record, whether that ground was considered by, or even if it was rejected by, the trial court, unless due-process constraints require otherwise.'" (506)

FACTUAL BACKGROUND

Martha Neal Norvell created a revocable trust in 2007 and transferred a lake house to it, naming Carter Norvell as trustee and beneficiary. In 2012, Martha revoked the trust, executed codicils making William an equal beneficiary of her estate, granted Carter and Samuel authority under a durable power of attorney, and later authorized Samuel to sell the lake house to Carter. Samuel sold the property to Carter for \$250,000, which William alleged was substantially below its appraised value and contrary to Martha's estate plan. William sued Carter and Samuel while Martha was still alive, alleging misuse of the power of attorney, breach of fiduciary duty, conspiracy, undue influence, and interference with his expected inheritance.

PROCEDURAL HISTORY

William filed a complaint in the Lauderdale Circuit Court challenging the sale of his mother's lake house to Carter and asserting declaratory-judgment, breach-of-fiduciary-duty, conspiracy, intentional-interference-with-inheritance-expectancy, and undue-influence claims. He later filed a related petition in the Lauderdale Probate Court seeking conservatorship-related relief. The circuit court entered summary judgment for the defendants, denied William's post-judgment motion, and William appealed. The Supreme Court of Alabama affirmed the judgment on the interference-with-inheritance-expectancy and undue-influence claims, reversed it on the declaratory-judgment, breach-of-fiduciary-duty, and conspiracy claims, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remanded for further proceedings consistent with the opinion on the declaratory-judgment, breach-of-fiduciary-duty, and conspiracy claims. The summary judgment remains affirmed on the intentional-interference-with-inheritance-expectancy and undue-influence claims.

CASES CITED

- Williams v. State Farm Mutual Automobile Insurance Co., 886 So. 2d 72, 74 (Ala. 2003)
- Dow v. Alabama Democratic Party, 897 So. 2d 1035, 1038 (Ala. 2004)
- Ramson v. Brittin, 62 So. 3d 1035, 1038 (Ala. Civ. App. 2010)
- Soutullo v. Mobile County, 58 So. 3d 733, 738 (Ala. 2010)
- State Department of Revenue v. Hoover, Inc., 993 So. 2d 889, 892-93 (Ala. Civ. App. 2007)
- Tucker v. Nichols, 431 So. 2d 1263, 1264 (Ala. 1983)
- Fogarty v. Southworth, 953 So. 2d 1225, 1232 (Ala. 2006)
- Roberson v. C.P. Allen Construction Co., 50 So. 3d 471, 478 (Ala. Civ. App. 2010)
- Ex parte Sikes, 218 So. 3d 839, 847 (Ala. Civ. App. 2016)
- Drake v. Alabama Republican Party, 209 So. 3d 1118, 1122 (Ala. Civ. App. 2016)
- Gardens at Glenlakes Property Owners Association, Inc. v. Baldwin County Sewer Service, LLC, 225 So. 3d 47, 51-53 (Ala. 2016)

- State v. Property at 2018 Rainbow Drive, 740 So. 2d 1025, 1027-28 (Ala. 1999)
- Hamm v. Norfolk Southern Railway, 52 So. 3d 484, 499 (Ala. 2010) (Lyons, J., concurring specially)
- Wyeth, Inc. v. Blue Cross & Blue Shield of Alabama, 42 So. 3d 1216, 1219-21 (Ala. 2010)
- Ex parte BAC Home Loans Servicing, LP, 159 So. 3d 31, 44-46 (Ala. 2013)
- Dennis v. Magic City Dodge, Inc., 524 So. 2d 616, 618 (Ala. 1988)
- Sturdivant v. BAC Home Loans Servicing, LP, 159 So. 3d 15 (Ala. Civ. App. 2011)
- Ex parte Merrill, 264 So. 3d 855, 863 n. 6 (Ala. 2018)
- Nichols v. HealthSouth Corp., [Ms. 1151071, March 23, 2018] (Ala. 2018)
- Ex parte Wilcox County Board of Education, 218 So. 3d 774, 779 n. 7 (Ala. 2016)
- Har-Mar Collisions, Inc. v. Scottsdale Insurance Co., 212 So. 3d 892, 907 (Ala. 2016) (Murdock, J., concurring in the result)
- Free v. Lasseter, 31 So. 3d 85 (Ala. 2009)
- Wheeler v. George, 39 So. 3d 1061, 1083 (Ala. 2009)
- Kruse v. Vanderbilt Minerals, LLC, 189 So. 3d 42, 56 (Ala. 2015)
- Clark v. Wells Fargo Bank, N.A., 24 So. 3d 424 (Ala. 2009)
- Johnson v. Brown-Service Insurance Co., 293 Ala. 549, 552, 307 So. 2d 518, 520-21 (1974)
- Ex parte Casey, 88 So. 3d 822, 830 (Ala. 2012)
- Rush v. Rush, 163 So. 3d 362, 369 (Ala. Civ. App. 2014)
- Gonzalez, LLC v. DiVincenti, 844 So. 2d 1196, 1202 (Ala. 2002)
- Harris v. Cook, 944 So. 2d 977, 981 (Ala. Civ. App. 2006)