MASSACHUSETTS SUPREME JUDICIAL COURT

Ferro v. School Department

447 Mass. 1021 (2006) · Decided November 16, 2006

SUMMARY

The Supreme Judicial Court of Massachusetts remanded the case for reformation of the Mary S. Souza Living Trust so that the New Bedford School Department would hold and administer a scholarship fund in accordance with the settlor's charitable and tax-related intentions. The court directed that the reformation be effective November 6, 1998, with a specified amendment to the proposed trust language.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
JURISDICTION	Massachusetts
DECIDED	November 16, 2006
DISPOSITION	remanded
PROCEDURAL POSTURE	The trustee of the Mary S. Souza Living Trust commenced an action in the county court seeking reformation of the trust instrument to carry out the settlor's charitable and tax objectives.
PRECEDENTIAL VALUE	published precedential opinion

TOPICS

charitable trusts · trust administration · trusts · estate tax · probate

PRACTICE AREAS

trusts and estates · tax

QUESTIONS PRESENTED

1. Whether the trust instrument could be reformed because a drafting mistake caused it to fail to conform to the settlor's charitable and tax-related intent.
2. Whether the proposed reformation, including transfer of responsibility for holding and administering the fund to the New Bedford school department and retroactive effectiveness, effectuated rather than contradicted the settlor's intent.

3. Whether the requested language in the last sentence of paragraph 5 of exhibit E was supported by the record.

HOLDINGS

1. A trust instrument may be reformed when, because of a mistake, it fails to conform to the settlor's intent, particularly when the instrument produces tax results clearly inconsistent with the settlor's tax objectives.
2. The proposed reformation effectuated, and was not contrary to, the settlor's intent because transferring responsibility for holding and administering the fund to the municipal school department would achieve the intended charitable purpose and tax exemption.
3. The record did not demonstrate a sufficient basis for the requested reformation of the last sentence of paragraph 5; the sentence instead had to be amended to state, 'This Fund is to be used for the benefit of said New Bedford High School.'

KEY QUOTATIONS

> *"Under Massachusetts law, a trust instrument may be reformed "if, because of a mistake, it fails to conform to the settlor's intent,""* (447 Mass. at 1021)

> *"particularly where the trust instrument "produced tax results that were clearly inconsistent with the settlor's tax objectives.""* (447 Mass. at 1021)

> *"We remand the case to the county court for entry of a judgment reforming the trust substantially as sought in exhibit E to the complaint, effective November 6, 1998."* (447 Mass. at 1022)

FACTUAL BACKGROUND

The Mary S. Souza Living Trust established a scholarship fund for qualified graduates of New Bedford High School and directed that the remainder be gifted to the New Bedford school department. The trustee alleged that a drafting mistake prevented the fund from satisfying Internal Revenue Code requirements for tax-exempt educational or charitable status. The drafting attorney's affidavit stated that the settlor intended a tax-advantaged scholarship fund and intended the trust assets to pass free of estate taxes.

PROCEDURAL HISTORY

The trustee petitioned the county court for reformation of the trust, including retroactive effect to November 6, 1998. The Supreme Judicial Court remanded for entry of a judgment reforming the trust substantially as requested, with a specified amendment to the final sentence of paragraph 5 of exhibit E.

DISPOSITION

remanded

REMAND INSTRUCTIONS

Remand to the county court for entry of a judgment reforming the trust substantially as sought in exhibit E to the complaint, effective November 6, 1998. The last sentence of paragraph 5 of exhibit E must be amended to provide: "This Fund is to be used for the benefit of said New Bedford High School."

CASES CITED

- Fleet Nat'l Bank v. Wajda, 434 Mass. 1009, 1010 (2001)
- Walker v. Walker, 433 Mass. 581, 587 (2001)
- Dassori v. Patterson, 440 Mass. 1039 (2004)
- DiCarlo v. Mazzarella, 430 Mass. 248, 250 (1999)
- BankBoston v. Marlow, 428 Mass. 283, 285 (1998)

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