

SUPREME COURT OF NEW HAMPSHIRE

Pedersen v. Brook

151 N.H. 65 (2004) · Decided May 17, 2004

SUMMARY

The New Hampshire Supreme Court vacated and remanded a probate court order in a partition action involving property conveyed to the parties as joint tenants. The court held that the probate court had authority to determine the legal status and effect of the deed and the parties’ respective interests, including the relevance of their contributions and any completed gift. The probate court had failed to resolve those issues before awarding the defendant \$4,000 and decreeing the plaintiff sole owner.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Nadeau, J.; Broderick, J.; Dalianis, J.; Duggan, J.
JURISDICTION	New Hampshire
DECIDED	May 17, 2004
DISPOSITION	vacated_and_remanded
PROCEDURAL POSTURE	Brook appealed a Cheshire County Probate Court order in a partition action that declared Pedersen sole owner of the property in fee simple and awarded Brook \$4,000 for her interest.
STANDARD OF REVIEW	Findings of the trial court are not disturbed unless unsupported by the evidence or erroneous as a matter of law; probate findings of fact are final unless plainly erroneous; legal determinations and application of law to fact are reviewed independently for plain error.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Marcia A. Brook v. James D. Pedersen

TOPICS

- partition
- probate procedure
- real estate
- equitable relief
- appellate procedure

PRACTICE AREAS

- Real estate
- Probate
- Appellate procedure
- Equitable remedies

QUESTIONS PRESENTED

1. Whether the probate court had authority in a partition action to determine the efficacy and legal import of the deed conveying the property to Pedersen and Brook as joint tenants.
2. Whether the probate court had authority to determine the status of legal title and the parties' respective interests in the property under RSA chapter 547-C.
3. Whether the conveyance and the parties' contributions required Brook to receive an undivided one-half interest or permitted an equitable division under the partition statute.

HOLDINGS

1. The probate court erred in concluding that it lacked jurisdiction to rule on the efficacy and legal import of the deed conveying the property to Pedersen and Brook as joint tenants.
2. A conveyance into joint tenancy does not necessarily create an irrebuttable entitlement to one-half of the property's value in a partition proceeding.

KEY QUOTATIONS

“By the terms of the statute, the probate court has authority to consider the “status of the legal title” to the property in adjudicating a partition case.” (151 N.H. at 67)

“The partition statute looks at the parties’ contributions to the acquisition, maintenance, repair, preservation, improvement, and appreciation of the property, and any disparities in those contributions.” (151 N.H. at 68)

FACTUAL BACKGROUND

Pedersen and Brook jointly signed a purchase and sale agreement for improved property in Alstead, but the property was initially conveyed solely to Pedersen, who paid most or all of the purchase price, taxes, insurance, and improvement costs. The parties lived together on the property, with Brook contributing to utilities, garden materials, landscaping, and physical improvements. In 2001, Pedersen conveyed the property to himself and Brook as joint tenants with rights of survivorship, and the deed and transfer-tax declaration characterized the conveyance as a gift. After the relationship deteriorated, Pedersen sought partition, and the probate court awarded Brook \$4,000 while declaring Pedersen sole owner without deciding the deed's legal effect.

PROCEDURAL HISTORY

Pedersen petitioned the Cheshire County Probate Court for partition after the parties' relationship ended and Brook left the property. After a one-day bench trial, the probate court awarded Brook \$4,000 for her sweat equity and decreed Pedersen sole owner, but concluded it lacked authority to rule on the efficacy and legal import of the deed conveying the property to the parties as joint tenants. The Supreme Court of New Hampshire held that the probate court had authority to determine the legal title and the parties' respective interests, vacated the order, and remanded for further proceedings.

DISPOSITION

vacated_and_remanded

REMAND INSTRUCTIONS

The probate court must conduct further proceedings consistent with the opinion, including determining the efficacy and legal import of the deed, the status of legal title, and the parties' respective interests under the applicable partition standards.

CASES CITED

- Olbres v. Hampton Coop. Bank, 142 N.H. 227, 230 (1997)
- Fleet Bank - NH v. Chain Constr. Corp., 138 N.H. 136, 139 (1993)
- Northern N.H. Mental Health v. Cannell, 134 N.H. 519, 522 (1991)
- Bartlett v. Bartlett, 116 N.H. 269, 272 (1976)
- Hale v. Jacques, 69 N.H. 411, 411-12 (1898)
- State v. L'Heureux, 150 N.H. 822, 827-28 (2004)
- Town of Nottingham v. Bonser, 146 N.H. 418, 430 (2001)
- Vogel v. Vogel, 137 N.H. 321, 322 (1993)