PORTAGE COUNTY PROBATE COURT

In re Estate of Gilger

63 Ohio Law Abs. 595 (1952) · Decided July 7, 1952

SUMMARY

The court interprets Ohio General Code § 10503-18, concerning the descent of property when spouses die within thirty days of one another in a common accident. It holds that the first decedent's general estate passes to that decedent's heirs, while the second decedent's general estate passes to the second decedent's heirs, without a presumption governing the order of death. The court further holds that joint survivorship bank accounts, life insurance proceeds, and co-owner Series E savings bonds are governed by their contractual terms rather than by the statute of descent and distribution.

CASE DETAILS

COURT	Portage County Probate Court
WRITING FOR THE COURT	Dietrich, J.
JURISDICTION	Ohio
DECIDED	July 7, 1952
DISPOSITION	other
PROCEDURAL POSTURE	The administrator of John W. Gilger's estate filed an inventory listing property held in both spouses' names. The administrator of Lilly M. Gilger's estate excepted to the inventory, and the probate court was asked to interpret Ohio General Code § 10503-18 and determine the heirs' rights in the two estates.
STANDARD OF REVIEW	The court independently interpreted the governing statute and applied the relevant contract principles; no separate standard-of-review formulation was stated.
PRECEDENTIAL VALUE	Published state trial-court opinion
PARTIES	Heirs of John W. Gilger v. Heirs of Lilly M. Gilger

TOPICS

probate procedure · intestacy · statutory interpretation · life insurance litigation · contracts

PRACTICE AREAS

probate | estate administration | statutory interpretation | contracts | insurance

QUESTIONS PRESENTED

1. Whether Ohio General Code § 10503-18 caused the general assets of the first decedent's estate to pass to that decedent's heirs rather than to the surviving spouse who died within thirty days after a common accident.
2. Whether § 10503-18 also caused the estate of the second decedent to pass to the heirs of the first decedent.
3. Whether a joint-and-survivorship bank account, life insurance proceeds, and jointly registered Series E savings bonds were governed by the statute of descent and distribution or by their contractual terms.
4. Whether the statute created a presumption regarding the order of death.

HOLDINGS

1. When a spouse dies within thirty days after the other spouse's death from a common accident, the general assets of the first decedent pass to the first decedent's heirs, and no part of that estate passes to the estate of the second decedent.
2. The statute applies only to the estate of the first decedent; the second decedent's estate passes under the general law of descent and distribution to that decedent's heirs.
3. Section 10503-18 does not establish a presumption concerning the actual order of death; it defines inheritance rights and modifies the ordinary course of descent and distribution.
4. Joint-and-survivorship bank accounts, life insurance proceeds payable to a designated beneficiary, and co-owner Series E United States savings bonds are governed by their contractual terms rather than by § 10503-18 and the statutes of descent and distribution.

KEY QUOTATIONS

> *"It does not establish a presumption of the order of death, but merely defines the right of inheritance to property of those who die within the time and under the circumstances therein described."* (at 599)

> *"The legal fiction as to descent does not apply to the estate of the second decedent."* (at 600)

> *"This statute operates in the field of the law of inheritance and has no application to rights vested under contract."* (at 600)

> *"Joint and survivorship bank deposits, the proceeds of life insurance policies and co-owner U. S. Savings Bond of the E type are not controlled by statutes of descent and distribution but are controlled by the laws of contract and are payable according to their contract terms."* (at 603)

FACTUAL BACKGROUND

John W. Gilger and his wife, Lilly M. Gilger, were struck by an automobile while crossing a street on March 1, 1952. John died within minutes, and Lilly died on March 21, 1952, from injuries sustained in the same accident. They had no children and both died intestate, leaving different surviving relatives. Their estates included general property, a joint-and-survivorship bank account, life insurance policies, and Series E United States savings bonds registered in both names.

PROCEDURAL HISTORY

John Gilger died shortly after being struck by an automobile, and his wife, Lilly, died twenty-one days later from injuries sustained in the same accident. Both died intestate. After exceptions were filed to the inventory of John's estate, the court interpreted § 10503-18, determined the treatment of the estates' general assets and contract-based assets, and ordered the parties to file an amended inventory.

DISPOSITION

other

REMAND INSTRUCTIONS

The parties were ordered to file an amended inventory consistent with the court's findings concerning the general assets and contract-based assets of the two estates. Exceptions of both parties were noted.

CASES CITED

- Estate of Thatcher, 30 O. N. P. (N. S.) 515
- Estate of Kessler, 85 Oh Ap, 240, 40 O. O. 167
- Ostrander v. Preece, 129 Oh St. 625, 3 O. O. 24
- Estate of Metzger, 140 Oh St. 50, 23 O. O. 257
- Harrison v. Hillegas, 13 O. O. 523
- Oleff, Adm. et al. v. Hodopp, Gdn., 129 Oh St. 432, 2 O. O. 409
- In re Ammerman, 32 N. P. (N. S.) 457
- Estate of DiSanto, 142 Oh St. 223, 27 O. O. 179
- Estate of Taylor, 27 O. O. 434
- Estate of Reiner, 47 O. O. 222
- In re R. D. Chittock, Deceased, 47 O. O. 226