

SUPREME COURT OF ARKANSAS

Rogers v. Lamb

347 Ark. 102 (2001) · Decided December 6, 2001

SUMMARY

The Arkansas Supreme Court reviewed a circuit court order awarding possession of property to a surviving joint tenant and rejecting the appellant’s asserted homestead and equitable claims. The court held that the trial court improperly resolved the case sua sponte without an appropriate motion, evidentiary hearing, or proof concerning disputed facts such as the appellant’s marital status, residence, and contributions to the property. It reversed and remanded for an evidentiary hearing and further proceedings.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	W. H. "Dub" Arnold, Chief Justice
JURISDICTION	Arkansas
DECIDED	December 6, 2001
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from an order of the Crawford County Circuit Court resolving an ejectment and property-rights dispute in favor of the appellee after the court acted sua sponte without a motion to dismiss, motion for summary judgment, or motion for judgment on the pleadings.
STANDARD OF REVIEW	The opinion does not expressly identify a standard-of-review label. It reviewed the validity of the circuit court's sua sponte merits order and whether genuine issues of material fact remained.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential.
PARTIES	Glenda R. Rogers v. Irene Lamb

TOPICS

- summary judgment
- civil procedure
- appellate procedure
- real estate
- equitable relief

PRACTICE AREAS

- Civil procedure
- Appellate procedure
- Real property
- Equitable remedies

QUESTIONS PRESENTED

1. Whether the circuit court could resolve the merits of the ejectment and property-rights dispute sua sponte without a motion for summary judgment, motion to dismiss, or motion for judgment on the pleadings.
2. Whether the circuit court's order was invalid because the parties were not afforded an opportunity to present evidence or witness testimony and genuine issues of material fact remained.
3. Whether the circuit court should have transferred the case to chancery court.

HOLDINGS

1. The circuit court erred by resolving the case sua sponte in the absence of a proper motion under the Arkansas Rules of Civil Procedure.
2. The circuit court could not determine the existence or priority of the parties' property rights or the extent of Rogers's equitable counterclaims without receiving evidence where material facts remained disputed.
3. The transfer issue was moot because Arkansas's recently adopted Amendment 80 abolished courts of equity.

KEY QUOTATIONS

“On remand, the trial court must hold an evidentiary hearing before ruling on the merits of the existence or priority of the parties’ property rights and the extent of any equitable counterclaims.”

“Otherwise, the trial court puts the proverbial “cart before the horse” and entertains a purely academic question of law.”

FACTUAL BACKGROUND

John D. Rogers and his daughter, Irene Lamb, acquired the disputed property in 1986 as joint tenants with rights of survivorship, each allegedly paying one-half of the purchase price. John D. Rogers died on March 24, 2000, after which Lamb claimed fee-simple title and sought ejectment of Glenda R. Rogers, who claimed a constitutional homestead interest as the decedent's widow. Rogers also claimed an equitable interest based on contributions to the property's maintenance, improvements, insurance, and taxes. The circuit court decided the matter after reviewing briefs, without receiving evidence or testimony, even though the parties disputed facts concerning Rogers's marriage, residence, and contributions.

PROCEDURAL HISTORY

Irene Lamb filed a petition for ejectment against Glenda R. Rogers, claiming fee-simple title to property held jointly with her deceased father. Rogers asserted a constitutional homestead interest and alternatively sought equitable relief based on her contributions to the property; she also moved to transfer the matter to chancery court. After a preliminary hearing and review of the parties' briefs, the circuit court entered an order determining Lamb's title superior, issuing a writ of possession, denying equitable relief, and denying Rogers's post-order motions. The Supreme Court of Arkansas reversed and remanded; it declined to address the transfer-to-chancery issue because the abolition of courts of equity rendered that issue moot.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The circuit court must hold an evidentiary hearing before ruling on the merits of the existence or priority of the parties' property rights and the extent of any equitable counterclaims. It must first receive proof that Rogers was in fact the deceased's widow before considering the applicability of a homestead interest.

CASES CITED

- Dillard v. Resolution Trust Corp., 308 Ark. 357, 359, 824 S.W.2d 387, 388 (1992)

OPINION

DUBARNOLD, J.

w.H. “Dub” Arnold, Chief Justice. Appellant, Glenda R. Rogers, brings the instant appeal from an order of the Crawford County Circuit Court (1) finding appellee Irene Lamb’s right of title, as the surviving joint tenant of property held by Lamb and her deceased father, superior to Rogers’s homestead claim, (2) issuing a writ of possession commanding the county sheriff to deliver the property to Lamb, (3) denying appellant’s counterclaim for equitable relief, (4) denying appellee recovery of any rental payments, and (5) denying Rogers’s motion for further proceedings and alternative motion for findings and a new trial.

The court of appeals certified this case for us to consider whether a widow’s constitutional homestead rights, created by Ark. Const, art. 9, § 6, may be defeated by the survivorship interest of a joint tenant in property conveyed pursuant to Ark. Code Ann. section 18-12-106 (Supp. 2001). Our jurisdiction is authorized by Ark. Sup. Ct. R. 1 — 2(a)(1) and (d) (2001).

The instant dispute arose after the March 24, 2000 death of John D. Rogers, Lamb’s father and appellant’s purported husband. On July 28, 2000, Lamb filed a petition for ejectment against appellant based upon a warranty deed reflecting that Lamb and her father took title in 1986 to the subject property as joint tenants with rights of survivorship. According to Lamb, each paid one-half of the purchase price with the understanding that Rogers would occupy the property during his life.

As a result of her father’s death, Lamb averred that she held a fee-simple absolute interest in the property, free and clear of any claim by appellant. In response, Rogers claimed a constitutional homestead interest in the property. Alternatively, she filed a counterclaim against Lamb asking the court to acknowledge her equitable interest in the property.

In particular, appellant insisted that her financial contributions towards the home's maintenance, improvements, insurance, and taxes, entitled her to such relief. In light of the equitable counterclaim, Rogers also moved that the case be transferred to chancery court. Following a December 6, 2000 preliminary hearing and after reviewing only the parties' briefs, the trial court entered an order on March 7, 2001, finding that jurisdiction was proper in the circuit court, resolving the merits of the case in Lamb's favor, and denying Rogers any equitable relief.

Notably, neither party filed a motion to dismiss or a motion for summary judgment. In other words, the trial court entered its order settling the case sua sponte. Rogers raises three points on appeal. First, she argues that the trial court erred by determining that her homestead right was inferior to Lamb's survivorship interest in the property.

Second, she challenges the validity of the trial court's judgment in the absence of an appropriate motion filed by either party and in view of the court's refusal to hold a hearing or accept evidence in support of her equitable claim.

Third, she challenges the trial court's decision to retain jurisdiction and its implicit denial of her motion to transfer the cause to chancery court. We find merit in appellant's arguments, and we reverse and remand for further action consistent with this opinion.

As an initial matter, we decline to address the merits of appellant's final point on appeal. Given the people's recent passage of Ark. Const, amend. 80, and the consequent abolition of courts of equity, the issue is moot. Validity of March 7, 2001 order At first glance, the instant case appears to turn upon our resolution of a substantive legal issue, namely, whether a joint tenant's survivorship interest trumps a widow's homestead rights.

However, closer inspection of the record on appeal reveals that the case hinges on appellant's second point, a procedural challenge to the validity of the trial court's March 7, 2001 order. Prior to the court's ruling, neither party was afforded the opportunity to introduce evidence or witness testimony in support of their positions.

Moreover, since Lamb neither filed a motion for summary judgment, a motion to dismiss, or a motion for judgment on the pleadings, there was no resulting burden on Rogers to "meet proof with proof," nor was there any impetus for the court to decide the case sua sponte. See *Dillard v. Resolution Trust Corp.*, 308 Ark. 357, 359, 824 S.W.2d 387, 388 (1992) (requiring opponent to meet proof with proof, by showing a material issue of fact, once moving party makes prima facie showing of entitlement to summary judgment).

Although appellee insists that summary judgment was warranted as a matter of law, she fails to offer any argument or authority in support of a court's granting summary judgment in the absence of a proper motion filed pursuant to Ark. R. Civ. P. 56.

In any event, we are convinced that genuine issues of material fact remain in dispute. For example, the parties disagree about the relevant facts supporting a homestead right. Contrary to Rogers's assertion, Lamb suggests that appellant did not live in Mr. Rogers's home for a fourteen-year period but maintained another residence in Forth Smith, Arkansas. Lamb also implies, in her brief, that Rogers may not have been married to her father during the relevant period.

In the absence of evidence on these matters, the trial court's order was based upon speculation and conjecture. Indeed, the trial court could only assume the existence of material facts, including whether appellant was married to the deceased, where she resided, and the nature and amount of any contributions she made to the property.

The record is silent on these issues because there was no trial or pleadings to elicit the requisite proof. On remand, the trial court must hold an evidentiary hearing before ruling on the merits of the existence or priority of the parties' property rights and the extent of any equitable counterclaims.

The court must have proof that appellant was in fact Mrs. John D. Rogers, the deceased's widow, before it can even consider the applicability of an alleged homestead interest. Otherwise, the trial court puts the proverbial "cart before the horse" and entertains a purely academic question of law. Reversed and remanded. IMBER, J., not participating.