

SUPREME COURT OF RHODE ISLAND

In re Edwin H. Tetreault

11 A.3d 635 (R.I. 2011) · No. No. 2009-166 · Decided January 13, 2011

SUMMARY

The Rhode Island Supreme Court answered certified questions concerning whether a devisee holding a one-half tenancy-in-common interest under a residuary clause could claim a homestead exemption under R.I. Gen. Laws § 9-26-4.1. The court held that such a devisee satisfies the ownership requirement and that a tenant in common who is the sole occupant may qualify as a family for purposes of the exemption. It held that the devisee lacked legal standing to occupy or intend to occupy the property after the executrix initiated efforts to sell and evict him, and declined to answer the fourth question.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Chief Justice Suttell; Justice Goldberg; Justice Flaherty; Justice Robinson
JURISDICTION	Rhode Island
DECIDED	January 13, 2011
DOCKET	No. 2009-166
DISPOSITION	remanded
PROCEDURAL POSTURE	The United States Bankruptcy Court for the District of Rhode Island certified four questions of Rhode Island law concerning the debtor's claimed homestead exemption in inherited real property.
STANDARD OF REVIEW	Certified questions and questions of statutory interpretation are reviewed de novo.
PRECEDENTIAL VALUE	Published Rhode Island Supreme Court opinion; binding state-law precedent.
PARTIES	Edwin H. Tetreault v. Joseph M. DiOrio, Trustee

TOPICS

homestead

probate

bankruptcy

statutory interpretation

appellate procedure

PRACTICE AREAS

Bankruptcy

Probate

Real estate

Homestead exemptions

Statutory interpretation

QUESTIONS PRESENTED

1. Whether a devisee of real property under the residuary clause of a Rhode Island will satisfies the ownership or possessory-rights requirement of Rhode Island General Laws § 9-26-4.1.
2. Whether a tenant in common who is the sole occupant of property may qualify for a homestead exemption under § 9-26-4.1.
3. Whether a residuary devisee has legal standing to occupy or intend to occupy property after an executrix has initiated eviction proceedings pursuant to an express testamentary power of sale.
4. Whether homestead rights would prevent a sale of the property for payment of legacies under § 9-26-4.1.

HOLDINGS

1. A devisee of real property under the residuary clause of a Rhode Island will satisfies the ownership requirement of § 9-26-4.1 and may qualify for the homestead exemption until the devisee is divested of that interest.
2. A tenant in common who is the sole occupant of a property may qualify as a family and may be eligible for a homestead exemption under § 9-26-4.1.
3. A general devisee of a residuary interest does not have legal standing to occupy or intend to occupy the property after the executrix initiates eviction proceedings based on an express power of sale in the will.

KEY QUOTATIONS

“We conclude that a devisee of real property under the residuary clause of a Rhode Island will satisfies the ownership requirement enumerated in the homestead statute to qualify for the homestead estate exemption until that point when he or she is divested of that interest.” (11 A.3d at 640)

“We conclude that a tenant in common, who is the sole occupant of a property, may qualify as a “family” and therefore may be eligible for a homestead exemption under § 9-26-4.1.” (11 A.3d at 642)

“We conclude, therefore, that a general devisee of a residuary interest in real property does not have legal standing to occupy or intend to occupy property after the executrix has initiated a procedure to evict the devisee from the property based on the authority granted in an express power of sale in the testatrix’s will.” (11 A.3d at 645)

FACTUAL BACKGROUND

Edwin H. Tetreault and his sister were joint residuary devisees of their mother's real property, each receiving a one-half interest. After their mother's death, Tetreault continued to live alone at the property, where he had resided for most or all of his life. The executrix possessed an express testamentary power of sale and issued a notice terminating Tetreault's tenancy before filing an eviction action. Tetreault then filed for Chapter 7 bankruptcy and claimed a Rhode Island homestead exemption in his interest in the property.

PROCEDURAL HISTORY

Tetreault filed a Chapter 7 bankruptcy petition after the executrix issued a notice terminating his tenancy and commenced an eviction action. He claimed a homestead exemption in his one-half residuary interest in the property, and the bankruptcy trustee objected. The Rhode Island Bankruptcy Court certified four questions to the Rhode Island Supreme Court. While the certification was pending, the District Court entered an eviction judgment, the Probate Court authorized sale of the property, and the Superior Court affirmed both orders; Tetreault's appeals from those judgments were later withdrawn.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The papers in the case may be remanded to the United States Bankruptcy Court for further proceedings consistent with the answers to the certified questions.

CASES CITED

- In re D'Ellena, 640 A.2d 530, 531 (R.I. 1994)
- Jefferson v. Moran, 479 A.2d 734, 738 (R.I. 1984)
- Carnevale v. Dupee, 783 A.2d 404, 408 (R.I. 2001)
- State v. Greenberg, 951 A.2d 481, 489 (R.I. 2008)
- State v. LaRoche, 925 A.2d 885, 887 (R.I. 2007)
- State v. Oliveira, 882 A.2d 1097, 1110 (R.I. 2005)
- Harvard Pilgrim Health Care of New England, Inc. v. Rossi, 847 A.2d 286, 290 (R.I. 2004)
- DiCristofaro v. Beaudry, 113 R.I. 313, 320 A.2d 597, 600-601 (1974)
- Votolato v. McCaull, 80 R.I. 301, 96 A.2d 329, 331 (1953)
- Public Health Trust of Dade County v. Lopez, Public Health Trust of Dade County v. Lopez, 531 So. 2d 946, 948 (Fla. 1988)
- Dwyer v. Cempellin, 424 Mass. 26, 673 N.E.2d 863, 866 (1996)
- In re Cunningham, 354 B.R. 547, 553 (D. Mass. 2006)
- Industrial Trust Co. v. Colt, 50 R.I. 252, 146 A. 857, 860 (1929)
- Champlin v. Powers, 80 R.I. 30, 90 A.2d 787, 790-791 (1952)
- Ranalli v. Edwards, 98 R.I. 394, 202 A.2d 516, 519 (1964)
- In re Martin, 25 R.I. 1, 54 A. 589, 596 (1903)

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