

SUPREME COURT OF THE STATE OF HAWAI‘I

In the Matter of the Thomas H. Gentry Revocable Trust

138 Haw. 158 (2016) · No. SCWC-13-0000428 · Decided June 28, 2016

SUMMARY

The Supreme Court of Hawai‘i reviewed the Intermediate Court of Appeals’ dismissal of Kiana E. Gentry’s appeal concerning enforcement of a settlement agreement governing the liquidation and distribution of trust assets. The court held that the appeal was not an impermissible collateral attack on the probate court’s separate distribution judgment and was not moot, vacated the ICA’s judgment, and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of the State of Hawai‘i
WRITING FOR THE COURT	Mark E. Recktenwald, Chief Justice; Mark E. Recktenwald, C.J.; Paula A. Nakayama, J.; Richard W. Pollack, J.; Sabrina S. McKenna, J.; Michael D. Wilson, J.
JURISDICTION	Hawaii
DECIDED	June 28, 2016
DOCKET	SCWC-13-0000428
DISPOSITION	vacated
PROCEDURAL POSTURE	Kiana Gentry sought certiorari review of the Intermediate Court of Appeals' dismissal of her appeal from the probate court's denial of her petition to enforce a trust settlement agreement and appoint a receiver.
STANDARD OF REVIEW	The applicability of the collateral-attack doctrine and mootness are questions of law reviewed de novo. Mootness is a subject-matter-jurisdiction issue reviewed de novo.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Kiana E. Gentry v. The Co-Trustees of the Thomas H. Gentry Revocable Trust, Respondent beneficiaries

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QUESTIONS PRESENTED

1. Whether Kiana's appeal from the denial of her petition to enforce the settlement agreement constituted an impermissible collateral attack on the separate distribution judgment.
2. Whether Kiana's appeal was moot because she had not appealed the distribution judgment and the ICA allegedly could not grant effective relief.

HOLDINGS

1. The appeal was not an impermissible collateral attack because Kiana filed her petition to enforce the settlement agreement before the co-trustees filed their petition for instructions and before the distribution judgment existed. The settlement agreement also addressed matters broader than those addressed by the distribution judgment.
2. The appeal was not moot because Kiana could still receive effective relief. The probate court retained authority under Hawai'i Probate Rule 36(b) to reopen or amend the distribution judgment, and the trust assets remained under the co-trustees' control.
3. The appeal was not moot because the settlement agreement and distribution judgment did not embrace the same subject matter. The settlement agreement addressed numerous matters beyond the pro rata distribution of remaining trust assets.

KEY QUOTATIONS

"A collateral attack 'is an attempt to impeach a judgment or decree in a proceeding not instituted for the express purpose of annulling, correcting or modifying such judgment or decree.'" (138 Haw. at 164)

"Because the Probate Court retains the power to reopen and amend the Distribution Judgment pursuant to HPR Rule 36(b), Kiana's appeal could be heard on the merits without being moot because she retains an 'effective remedy.'" (138 Haw. at 167)

"As such, an appellate court could grant Kiana effective relief, and this issue is not moot." (138 Haw. at 168)

FACTUAL BACKGROUND

Thomas H. Gentry established the Revocable Trust and Marital Trust, which held substantial assets including interests in several Gentry real-estate companies. After years of disputes concerning trust accounting and asset distribution, the beneficiaries and co-trustees entered a settlement agreement requiring disposition of specified assets within thirty months, subject to a possible eighteen-month extension. Following the 2008 recession, the co-trustees declined to sell all remaining assets and instead sought authority to distribute them in kind on a pro rata basis. Kiana opposed that plan and petitioned to enforce the settlement agreement.

PROCEDURAL HISTORY

The probate court denied Kiana's petition to enforce a settlement agreement and separately entered a distribution judgment authorizing pro rata distribution of remaining trust assets. Kiana appealed only the enforcement judgment. The ICA held that the appeal was an impermissible collateral attack on the unappealed distribution judgment and dismissed it as moot. The Hawai'i Supreme Court vacated the ICA's judgment and remanded for further proceedings.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Vacate the ICA's December 5, 2014 judgment dismissing Kiana's appeal as moot and remand to the ICA for further proceedings consistent with the opinion.

CASES CITED

- Smallwood v. City & County of Honolulu, 118 Hawai'i 139, 185 P.3d 887 (App. 2008)
- Eastern Savings Bank, FSB v. Esteban, 129 Hawai'i 154, 296 P.3d 1062 (2013)
- County of Hawai'i v. Ala Loop Homeowners, 123 Hawai'i 391, 235 P.3d 1103 (2010)
- Lingle v. Hawai'i Government Employees' Association, AFSCME, Local 152, AFL-CIO, 107 Hawai'i 178, 111 P.3d 587 (2005)
- First Hawaiian Bank v. Weeks, 70 Haw. 392, 772 P.2d 1187 (1989)
- Gamino v. Greenwell, 2 Haw. App. 59, 625 P.2d 1055 (1981)
- Kim v. Reilly, 105 Hawai'i 93, 94 P.3d 648 (2004)
- City Bank v. Saje Ventures II, 7 Haw. App. 130, 748 P.2d 812 (1988)
- Kam Chin Chun Ming v. Kam Hee Ho, 45 Haw. 521, 371 P.2d 379 (1962)
- In re Doe Children, 105 Hawai'i 38, 93 P.3d 1145 (2004)
- Kaho'ohanohano v. State, 114 Hawai'i 302, 162 P.3d 696 (2007)
- Gator.com Corp. v. L.L. Bean, Inc., 398 F.3d 1125 (9th Cir. 2005)
- Life of the Land v. Burns, 59 Haw. 244, 580 P.2d 405 (1978)
- Wong v. Board of Regents of the University of Hawai'i, 62 Haw. 391, 616 P.2d 201 (1980)
- In re Thomas, 73 Haw. 223, 832 P.2d 253 (1992)
- Los Angeles County v. Davis, 440 U.S. 625, 631 (1979)
- Knox v. Service Employees International Union, Local 1000, 567 U.S. 298, 307 (2012)
- Ouachita Riverkeeper, Inc. v. Bostick, 938 F. Supp. 2d 32, 43 (D.D.C. 2013)
- Grant v. District of Columbia, 908 A.2d 1173, 1178 (D.C. 2006)
- Kennedy v. District of Columbia, 654 A.2d 847, 852 (D.C. 1994)
- Gao v. State, Department of the Attorney General, __ Hawai'i __, __ P.3d __ (2016)
- Eli v. State, 63 Haw. 474, 630 P.2d 113 (1981)

- Williams v. Aona, 121 Hawai‘i 1, 210 P.3d 501 (2009)
- Sierra Club v. D.R. Horton-Schuler Homes, LLC, 136 Hawai‘i 505, 364 P.3d 213 (2016)

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