

DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

Isabel Valdivia v. Esther Fajardo Valdivia

Isabel Valdivia v. Esther Fajardo Valdivia, 593 So. 2d 1190 (Fla. Dist. Ct. App. 1992) (Fla. 3d DCA 1992) · No. No. 91-1438

SUMMARY

The Florida Third District Court of Appeal held that a debtor may not transfer individually owned property to himself and his wife as tenants by the entireties if the transfer defrauds creditors by placing the property beyond their reach. The court reversed the trial court’s denial of a petition to void a conveyance, finding the ex-wife sufficiently alleged a fraudulent transfer claim where the decedent transferred his medical practice to himself and his new wife as joint tenants, leaving insufficient assets to satisfy a lump sum alimony judgment that constituted a claim against his estate.

CASE DETAILS

COURT	District Court of Appeal of Florida, Third District
WRITING FOR THE COURT	NESBITT; FERGUSON; GERSTEN
JURISDICTION	Florida
DOCKET	No. 91-1438
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from trial court order denying petition to void conveyance as fraudulent and denying motion to declare medical center part of decedent's estate.
STANDARD OF REVIEW	De novo review of failure to state a cause of action
PRECEDENTIAL VALUE	binding
PARTIES	Isabel Valdivia v. Esther Fajardo Valdivia

TOPICS

- family law
- alimony
- probate
- creditor claims
- motions to dismiss

PRACTICE AREAS

- Family Law
- Creditor-Debtor Rights
- Estates and Trusts

QUESTIONS PRESENTED

1. Whether the ex-wife's petition sufficiently alleged a cause of action for fraudulent conveyance to defeat her claim for unpaid lump sum alimony against the decedent's estate.

HOLDINGS

1. A debtor may not transfer property owned individually to himself and his wife as tenants by the entireties if such transfer will defraud creditors by placing property beyond their reach.

KEY QUOTATIONS

“The law is clear that a debtor may not transfer property owned by himself, individually, to himself and his wife as tenants by the entireties if such a transfer will defraud creditors by putting that property beyond the creditors' reach.” (at 1192)

“Appellant's petition to void the transaction sufficiently alleged a valid cause of action for fraudulent transfer. Therefore, appellant should have been permitted to go forward with her claim.” (at 1192)

FACTUAL BACKGROUND

Isabel and Jose Valdivia divorced in 1985. The dissolution court awarded Isabel \$250,000 lump sum alimony payable in installments, constituting a claim against Jose's estate, and awarded Jose a 75% interest in Belo Medical Center. In 1987, Jose transferred his interest to himself and Esther Fajardo (his future wife) as joint tenants. In 1990, weeks before his death, Fajardo transferred the 75% interest to herself individually. Isabel alleged the conveyances were fraudulent to defeat her claim for unpaid alimony of \$133,332.96.

PROCEDURAL HISTORY

After divorce, ex-wife sought unpaid lump sum alimony from ex-husband's estate, alleging fraudulent transfer of medical practice. Trial court denied her petition to void conveyance. Ex-wife appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to permit appellant to prosecute her petition to void the conveyance.

CASES CITED

- Whetstone v. Coslick, 117 Fla. 203, 157 So. 666 (1934)
- Ferre v. City Nat'l Bank, 548 So. 2d 701 (Fla. 3d DCA 1989)
- Money v. Powell, 139 So. 2d 702 (Fla. 2d DCA 1962)