

SUPREME COURT OF NORTH DAKOTA

Albrecht v. Albrecht (In re Estate of Albrecht)

2018 ND 67 (2018) · No. No. 20170087 · Decided March 8, 2018

SUMMARY

The North Dakota Supreme Court affirmed orders denying Glenvin Albrecht’s claims against the estate of his deceased spouse. The court held that Glenvin remained a surviving spouse because the divorce action was abated by Sharleen Albrecht’s death, and that the estate’s summary-judgment motion timely commenced proceedings challenging the claim disallowance. The court further concluded that contempt, equitable relief, and an independent economic-waste claim did not provide the requested recovery, which could instead have been addressed through an elective-share proceeding.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Jon J. Jensen, Justice; Jon J. Jensen; Lisa Fair McEvers; Daniel J. Crothers; Jerod E. Tufte; Gerald W. VandeWalle, C.J.
JURISDICTION	North Dakota
DECIDED	March 8, 2018
DOCKET	No. 20170087
DISPOSITION	affirmed
PROCEDURAL POSTURE	Glenvin Albrecht appealed orders in an informal probate proceeding denying his claims against the estate, and Mark Albrecht, the personal representative, cross-appealed. The North Dakota Supreme Court affirmed.
STANDARD OF REVIEW	The court reviewed the exercise of equitable powers for abuse of discretion. It applied the clearly erroneous standard to factual findings where relevant, but held that the independent economic-waste claim was legally unavailable and therefore did not need to review the factual findings for clear error.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion; precedential.
PARTIES	Glenvin Albrecht, Claimant v. Mark Albrecht, Personal Representative, Alan Albrecht, Matthew Albrecht

TOPICS

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PRACTICE AREAS

Probate

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Remedies

QUESTIONS PRESENTED

1. Whether the estate's motion for summary judgment, filed within sixty days after notice disallowing Glenvin's claim, constituted a timely proceeding under N.D.C.C. § 30.1-19-04.
2. Whether Glenvin qualified as Sharleen's surviving spouse under N.D.C.C. § 30.1-10-02 after the divorce action was abated by Sharleen's death.
3. Whether Glenvin could obtain a remedial contempt sanction in the estate proceeding for alleged violations of restraining provisions entered in the abated divorce proceeding.
4. Whether equitable relief was available to recover assets transferred during the divorce proceedings when the assets could be considered in an elective-share claim.
5. Whether an independent claim for economic misconduct or economic waste could be asserted outside divorce proceedings.

HOLDINGS

1. The estate's motion for summary judgment, filed within sixty days after notice of disallowance, satisfied the requirement that a proceeding on Glenvin's claim be commenced within the statutory period.
2. Glenvin remained Sharleen's surviving spouse because the divorce action was abated and the divorce judgment was nullified before a final judgment from which an appeal could be taken.
3. A request for a remedial contempt sanction must be raised in the proceeding to which the alleged contemptuous conduct relates; therefore, Glenvin could not obtain a remedial contempt sanction in the estate proceeding for alleged violations of orders entered in the divorce proceeding.
4. The district court properly denied Glenvin's independent equitable claim because the assets and alleged transfers could be addressed through a claim for an elective share of the augmented estate.
5. An independent claim for economic misconduct or economic waste cannot be asserted outside divorce proceedings and independently of a determination whether an unequal property division is appropriate.

KEY QUOTATIONS

“While it is true Glenvin sought and obtained a divorce from Sharleen, that divorce was rendered a nullity by this Court’s holding in Albrecht I.” (¶ 15)

“The legal and actual effect of the nullified divorce proceeding is that the marital property owned by Glenvin and Sharleen was not divided and distributed.” (¶ 17)

“We hold that the assertion of an independent claim for “economic waste” outside of divorce proceedings is inappropriate.” (¶ 29)

FACTUAL BACKGROUND

Glenvin and Sharleen Albrecht were married and involved in divorce proceedings when Sharleen transferred or retitled assets that had been jointly held with Glenvin. She liquidated a jointly owned mutual fund to purchase an annuity solely in her name naming their son Mark as beneficiary, exchanged another jointly owned annuity for one solely in her name, and used funds from a solely owned annuity to purchase a home jointly titled with Mark. Sharleen died before final resolution of the marital-property division, and the prior divorce action was later abated. Glenvin then sought recovery from Sharleen's estate, asserting contempt, equitable, and economic-misconduct theories.

PROCEDURAL HISTORY

Glenvin initiated divorce proceedings against Sharleen Albrecht in 2010. Sharleen died before a final judgment resolving marital-property issues, and the Supreme Court later held that her death abated the divorce action. Glenvin filed a claim against Sharleen's estate concerning assets Sharleen had transferred during the divorce proceedings. The district court extended the time to challenge disallowance, determined Glenvin was a surviving spouse, conducted an evidentiary hearing, and denied relief based on contempt, equity, and economic misconduct theories.

DISPOSITION

affirmed

CASES CITED

- Albrecht v. Albrecht, 2014 ND 221, ¶¶ 2, 15, 856 N.W.2d 755
- Investors Title Ins. Co. v. Herzig, 2010 ND 138, ¶ 40, 785 N.W.2d 863
- Washburn v. Levi, 2015 ND 299, ¶ 17, 872 N.W.2d 605
- Estate of Corrigan, 2014 MT 337, ¶ 19, 341 P.3d 623
- Briesse v. Public Employees' Retirement Bd., 2012 MT 192, ¶ 41, 285 P.3d 550
- Fahey v. Fife, 2017 ND 200, ¶ 18, 900 N.W.2d 250
- Booen v. Appel, 2017 ND 189, ¶ 24, 899 N.W.2d 648
- Cranston v. Winters, 238 N.W.2d 647, 651 (N.D. 1976)
- Weigel v. Weigel, 2015 ND 270, ¶ 22, 871 N.W.2d 810