

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA, FOURTH DISTRICT

Babette Varano v. Steven Varano and Vincent Michael Varano, et al.

No. 4D2024-1571 (Fla. 4th DCA June 11, 2025) · No. 4D2024-1571 · Decided June 11, 2025

SUMMARY

The Florida Fourth District Court of Appeal affirmed summary judgment holding that a life tenant lacked authority to sell the property in fee simple and was not entitled to the remaining escrowed sale proceeds. The court also held that, even assuming the widow was trustee of the remainder trust, her conflicting personal and fiduciary interests prevented her from binding the trust to the sale. The trust, as a one-half remainderman, was entitled to the undistributed proceeds.

CASE DETAILS

COURT	District Court of Appeal of the State of Florida, Fourth District
WRITING FOR THE COURT	Levine, J.; Forst, J.; Kuntz, J.
JURISDICTION	District Court of Appeal of the State of Florida, Fourth District
DECIDED	June 11, 2025
DOCKET	4D2024-1571
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a final judgment granting summary judgment to Steven Varano and directing that undistributed proceeds from the sale of property be transferred to a trust.
STANDARD OF REVIEW	De novo review applies to an order granting summary judgment.
PRECEDENTIAL VALUE	published
PARTIES	Babette Varano v. Steven Varano, Vincent Michael Varano, et al.

TOPICS

- real estate trusts summary judgment deeds standard of review

PRACTICE AREAS

- real estate law trusts and estates civil procedure appellate procedure

QUESTIONS PRESENTED

1. Whether a life tenant who lacks express authority in the deed to sell the property may convey a fee simple interest or claim the resulting escrowed sale proceeds.
2. Whether Babette Varano could bind the remainder trust to the sales contract while acting both as life tenant and purported trustee, given the conflict between her personal and fiduciary interests.
3. Whether summary judgment was proper on the undisputed facts.

HOLDINGS

1. A life tenant cannot convey an interest greater than the life estate she owns. Because the deed granted Babette only a life estate and did not reserve a right to sell the home, she could not sell a fee simple interest in the property without the required authority or joinder of the remaindermen.
2. Even assuming Babette was the trustee, she lacked authority to bind the trust to the sales contract because the transaction presented a conflict between her personal interest in liquidating the property and her fiduciary duty to the trust's beneficiary.
3. Summary judgment was proper because there was no genuine dispute of material fact and, as a matter of law, Babette was not entitled to the escrowed proceeds.

KEY QUOTATIONS

“A life tenant cannot convey an interest greater than what she owns.” (at 3)

“The widow did not have a fee simple interest to sell. All that she had was a life estate. No more. No less.” (at 3)

“In summary, the trial court did not err in granting summary judgment, because the widow, as a life tenant, did not have the right to sell the property, and similarly was not entitled to the remaining 28% of the sale proceeds.” (at 4-5)

FACTUAL BACKGROUND

Babette Varano and the decedent executed a deed conveying themselves a life estate in their marital homestead, with remainder interests divided equally between Babette's children and a trust for the decedent's son, Vincent Varano. The deed did not grant Babette authority to sell the property after the decedent's death. After the decedent died, Babette contracted to sell the property; following litigation and a settlement, 28% of the net proceeds remained in escrow pending agreement or judicial determination. Babette sought those proceeds, contending that her life estate had a compensable value and that she could bind the trust as its trustee, but the trial court awarded the undistributed funds to the trust.

PROCEDURAL HISTORY

Babette Varano filed a petition for declaratory relief seeking the remaining 28% of sale proceeds held in escrow after a settlement agreement allocated other portions of the proceeds. Steven Varano moved for summary judgment, arguing that Babette held only a life estate, lacked authority to sell the property, and had no interest in the escrowed funds. The circuit court granted summary judgment, denied rehearing, and entered final judgment transferring \$281,435.35 to the trust. Babette appealed, and the Fourth District affirmed.

DISPOSITION

affirmed

CASES CITED

- Volusia Cnty. v. Aberdeen at Ormond Beach, L.P., 760 So. 2d 126, 130 (Fla. 2000)
- Celotex Corp. v. Catrett, 477 U.S. 317 (1986)
- Chapman v. Chapman, 526 So. 2d 131, 135 (Fla. 3d DCA 1988)
- Hirschenson v. Compu-Link Corp. of MI, 389 So. 3d 574, 576 n.2 (Fla. 3d DCA 2023)
- Smith v. Smith, 600 S.W.2d 666 (Mo. Ct. App. 1980)

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