

SUPREME COURT OF GEORGIA

Knott v. Knott, 277 Ga. 380

589 S.E.2d 99 (2003) · No. S03F1027 · Decided November 17, 2003

SUMMARY

The Supreme Court of Georgia reviewed a contempt order arising from a divorce and property settlement agreement concerning a Hawaii condominium. The court held that the husband did not willfully violate the divorce judgment by failing to disclose a tax lien of which neither party had actual knowledge, and therefore reversed the contempt finding and attorney-fee award. It also held that pre-divorce tax liens were to be deducted from the property's sale proceeds and shared equally, while the husband remained responsible for taxes accruing after the divorce agreement.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Fletcher, Chief Justice
JURISDICTION	Georgia
DECIDED	November 17, 2003
DOCKET	S03F1027
DISPOSITION	reversed
PROCEDURAL POSTURE	Husband appealed a superior court order finding him in contempt of the parties' final judgment of divorce, requiring him to pay accrued taxes on Hawaii property from his share of the sale proceeds, and awarding Wife attorney fees.
STANDARD OF REVIEW	Questions of contractual interpretation are reviewed de novo as matters of law. A contempt finding requires willful disobedience of the court's decree or judgment.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Georgia
PARTIES	Kenneth Knott v. Kathryn Knott

TOPICS

- family law procedure
- divorce
- contract interpretation
- tax liens
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Husband willfully violated the divorce judgment by failing to disclose the recorded Hawaii tax lien in the divorce agreement.
2. Whether the pre-divorce tax lien on the Hawaii property was to be paid solely from Husband's share of the sale proceeds or deducted from the sales price and shared equally by the parties.

HOLDINGS

1. Husband did not willfully violate the divorce judgment because the record showed no intentional avoidance of investigation, prevention of Wife's access to information, or other willful failure to disclose the lien. The contempt finding and the attorney-fee award based on that finding were therefore improper.
2. The divorce agreement required the pre-divorce tax lien and accrued interest to be deducted from the sale price of the Hawaii property, with the remaining proceeds divided equally between the parties. Husband was not required to bear the entire burden from his share.

KEY QUOTATIONS

"In order for one to be held in contempt, there must be a willful disobedience of the court's decree or judgment." (*100)

"The cardinal rule of contractual construction is to ascertain the intent of the parties." (*101)

FACTUAL BACKGROUND

The parties' divorce agreement addressed responsibility for payments, taxes, liens, and sale expenses concerning a Hawaii condominium. Before the divorce, both parties knew of an existing tax claim involving the property, but neither had actual knowledge that the claim had been reduced to or recorded as a state tax lien. The agreement required Husband to make property payments until sale and provided that sale expenses, including liens, would be deducted from the sales price before the remaining proceeds were divided equally.

PROCEDURAL HISTORY

The parties entered into a separation and property settlement agreement in September 1999, which was incorporated into a final divorce judgment. After a dispute over the sale of a Hawaii condominium, Husband and Wife filed competing contempt motions. The superior court ruled against Husband, ordered him to bear the accrued tax burden from his share of the proceeds, and awarded Wife attorney fees. The Supreme Court of Georgia reversed.

DISPOSITION

reversed

CASES CITED

- Gallit v. Buckley, 240 Ga. 621, 626, 242 S.E.2d 89 (1978)
- Cummings v. Johnson, 218 Ga. 559, 560-561, 129 S.E.2d 762 (1963)
- Irvin v. Laxmi, Inc., 266 Ga. 204, 205, 467 S.E.2d 510 (1996)
- Northen v. Tobin, 262 Ga. App. 339, 342, 585 S.E.2d 681 (2003)
- McVay v. Anderson, 221 Ga. 381, 385, 144 S.E.2d 741 (1965)
- Hull v. Lewis, 180 Ga. 721, 724, 180 S.E. 599 (1935)
- Paul v. Paul, 235 Ga. 382, 384, 219 S.E.2d 736 (1975)
- McCann v. Glynn Lumber Co., 199 Ga. 669, 674, 34 S.E.2d 839 (1945)