

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Parker v. Estate of Bealer ex rel. U.S. Trust Co.

221 W. Va. 684 (2007) · Decided November 21, 2007

SUMMARY

The West Virginia Supreme Court of Appeals reviewed a summary judgment dispute concerning whether a charitable foundation and the transfer of a Hampshire County farm into it were void because the trust’s creation was procured by mistake under Florida law. The court concluded that the settlor relied on erroneous tax advice concerning the federal five-percent distribution requirement and that the foundation was void ab initio. The court reversed the circuit court’s judgment for Nancy Parker and remanded with directions to enter summary judgment for the estate and Kathleen Stone.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam
JURISDICTION	West Virginia
DECIDED	November 21, 2007
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from an order granting the appellee's motion for summary judgment in an action concerning title to a 277.42-acre farm.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. Summary judgment is required when the record shows no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	United States Trust Company of Florida, S.B., as personal representative of the Estate of Hartford E. Bealer and as Trustee of the Hartford E. Bealer Revocable Trust, as amended, Kathleen K. Stone v. Nancy Parker

TOPICS

- charitable trusts
- trusts
- estate litigation
- probate
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether summary judgment was properly granted to Nancy Parker when the undisputed evidence showed that the Foundation was created based on a fundamental mistake concerning the federal charitable-distribution requirement.
2. Whether the Foundation and the initial transfer of the farm were void ab initio under Florida law.
3. Whether the farm therefore remained part of Hartford Bealer's estate rather than Foundation property.

HOLDINGS

1. Summary judgment for Nancy Parker was improper because the undisputed evidence established that the Foundation was created based on a fundamental mistake and was void under the governing Florida law.
2. Under the Florida law governing the trust agreement, a trust is void if its creation or execution is procured by mistake, and the Hartford E. Bealer Foundation was void ab initio because its creation resulted from Bealer's fundamental mistake about the applicability of the five-percent distribution requirement.
3. Because the Foundation was void from its creation, the initial transfer of the farm to the Foundation was void ab initio; the farm was never legally part of the Foundation and remained part of Bealer's estate.

KEY QUOTATIONS

"A circuit court's entry of summary judgment is reviewed de novo." (221 W. Va. 687)

"A trust is void if the execution is procured by fraud, duress, mistake, or undue influence." (221 W. Va. 688)

"Thus, we are compelled to find the entire transaction in transferring the West Virginia property to the Foundation to be void ab initio, and further, we therefore find that the farm was never legally a part of the failed Foundation and thus remained, and now remains, a part of Mr. Bealer's estate." (221 W. Va. 692)

FACTUAL BACKGROUND

Hartford E. Bealer created the Hartford E. Bealer Charitable Foundation in Florida in 2000 and transferred his 277.42-acre Hampshire County, West Virginia, farm to it. He did so based on his son-in-law Jay Parker's representation that the Foundation could avoid the federal requirement that charitable foundations distribute at least five percent of their assets annually. After learning that the advice was incorrect and fearing that the farm might be sold, Bealer removed Jay Parker as trustee, transferred the farm back to himself, and revised his estate plan to leave the farm to his granddaughter Kathleen Stone. After Bealer's death, Nancy Parker, as Foundation trustee, claimed that the farm remained in the Foundation.

PROCEDURAL HISTORY

Nancy Parker, acting as trustee of the Hartford E. Bealer Foundation, sued the estate and Kathleen Stone, arguing that the farm remained property of the Foundation and could not be transferred back to Hartford Bealer and later devised to Stone. The Circuit Court of Hampshire County denied the appellants' motion for summary

judgment and granted Parker's motion on June 2, 2006. The appellants appealed, and the Supreme Court of Appeals of West Virginia reversed and remanded with directions to enter summary judgment for the appellants.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The circuit court was directed to deny summary judgment to Nancy Parker, grant summary judgment in favor of the appellants, and ensure that a memorandum of the proceedings, by order or deed or combination thereof, was entered in the appropriate property records of the Clerk of the County Commission of Hampshire County, West Virginia, reflecting the proper title to the property and the effect of the decision.

CASES CITED

- Painter v. Peavy, 192 W. Va. 189, 451 S.E.2d 755 (1994)
- Aetna Casualty & Surety Co. v. Federal Ins. Co. of New York, 148 W. Va. 160, 133 S.E.2d 770 (1963)
- Williams v. Precision Coil, Inc., 194 W. Va. 52, 459 S.E.2d 329 (1995)
- State v. Darynani, 774 So. 2d 855, 857 (Fla. 4th DCA 2000)
- Barr v. State, 731 So. 2d 126, 129-30 (Fla. 4th DCA 1999)
- State v. Bradford, 787 So. 2d 811 (Fla. 2001)
- Powell v. State, 508 So. 2d 1307, 1310 (Fla. 1st DCA 1987)
- Ray v. Hey, 183 W. Va. 521, 396 S.E.2d 702 (1990)
- Rader v. Adamson, 37 W. Va. 582, 16 S.E. 808 (1893)