

THIRD DISTRICT COURT OF APPEAL

James Aronson, et al. v. Doreen Aronson

James Aronson, et al. v. Doreen Aronson, 81 So. 3d 515 (Third District Court of Appeal 2012) · No. 3D09-773

SUMMARY

The Florida Third District Court of Appeal held that a decedent's homestead condominium held in a revocable trust was not subject to devise or disposition through the trust because the decedent was survived by a spouse; under Article X, section 4(c) of the Florida Constitution and section 732.4015(2)(a), Florida Statutes, the property passed outside probate to the spouse for life and to the decedent's sons as remaindermen. The court further ruled that the widow, as life tenant, is responsible for ordinary property expenses and could not recover from the remaindermen for a mortgage pay-off made before the decedent's death under a mistaken belief of title. The trial court's orders requiring the trust to reimburse the widow and to honor annual principal withdrawal demands were reversed.

CASE DETAILS

COURT	Third District Court of Appeal
WRITING FOR THE COURT	SHEPHERD, J.; SHEPHERD; SUAREZ; SALTER
JURISDICTION	Florida
DOCKET	3D09-773
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the Circuit Court for Miami-Dade County, Gerald Hubbard, Judge. On rehearing granted, the court withdraws its prior opinion and substitutes this opinion.
PRECEDENTIAL VALUE	published
PARTIES	James Aronson, Jonathan Aronson v. Doreen Aronson

TOPICS

probate trusts real estate constitutional law appellate procedure

PRACTICE AREAS

Trusts and Estates Real Property

QUESTIONS PRESENTED

1. Whether the Key Biscayne condominium is homestead property subject to the constitutional restrictions on devise.
2. Whether the trial court properly ordered the trust to reimburse Doreen for mortgage pay-off and expenses.
3. Whether Doreen is entitled to enforce the trust's provision for annual 5% principal withdrawals.

HOLDINGS

1. Because the Key Biscayne condominium was the decedent's homestead at death and his spouse survived him, the property was not subject to disposition through the trust; it passed by operation of law to the surviving spouse as a life estate with vested remainder to the decedent's descendants per stirpes under article X, section 4(c) of the Florida Constitution and section 732.401(1), Florida Statutes (2001).
2. Although a life tenant who pays off a mortgage outstanding against the estate is generally entitled to reimbursement from remaindermen, the widow was not entitled to reimbursement for the \$129,895 mortgage payoff she made before her husband's death, even if under a mistaken belief of fee simple ownership.
3. The trustees had no power or authority over the former marital home after it passed as homestead; the widow could not compel transfers of principal interests from the trust.
4. Res judicata did not bar the widow's claims because the claims in her amended complaint were different from those litigated in the prior action.

KEY QUOTATIONS

"Because the Key Biscayne condominium was Hillard's homestead and because his wife, Doreen, survived him, the condominium was not subject to disposition through the trust."

"At the moment of Hillard's death, his homestead property passed outside of probate ... in a twinkling of an eye, as it were, to his wife for life, and thereafter to his surviving sons, James and Jonathan per stirpes."

FACTUAL BACKGROUND

Hillard J. Aronson created a revocable trust and conveyed a Key Biscayne condominium to it. He later died, survived by his wife Doreen and two sons from a prior marriage, James and Jonathan. Doreen had used proceeds from the sale of her separate Massachusetts home to pay off the condominium mortgage. The trust gave Doreen a life estate with remainder to the sons and allowed her to withdraw 5% of principal per year. A prior appeal (Aronson I) held that Hillard's quitclaim deed to Doreen was a nullity. After that decision, Doreen began making annual withdrawal demands and sought reimbursement for expenses, leading to this litigation.

PROCEDURAL HISTORY

Following a non-jury trial, the trial court entered an amended and clarified final judgment declaring the Key Biscayne condominium to be Doreen Aronson's homestead, ordering the Trust to reimburse her for mortgage pay-off and repair expenses, and finding she had the power to demand annual principal distributions. The trustees appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

for proceedings in compliance herewith

CASES CITED

- Aronson v. Aronson, 930 So. 2d 766 (Fla. 3d DCA 2006)
- AMEC Civil, LLC v. State Dep't of Transp., 41 So. 3d 235 (Fla. 1st DCA 2010)
- Jones v. State ex rel. City of Winter Haven, 870 So. 2d 52 (Fla. 2d DCA 2003)
- Pipkin v. Wiggins, 526 So. 2d 1002 (Fla. 3d DCA 1988)
- Edward T. Cutler v. Cynthia Cutler, In Re: The Estate of Edith Alice Cutler, Cutler v. Cutler, 994 So. 2d 341 (Fla. 3d DCA 2008)
- Michael Engelke v. Estate of Paul Engelke, Engelke v. Estate of Engelke, 921 So. 2d 693 (Fla. 4th DCA 2006)
- Hill v. First Nat'l Bank of Marianna, 73 Fla. 1092, 75 So. 614 (1917)
- Smith v. Unkefer, 515 So. 2d 757 (Fla. 2d DCA 1987)
- Heiman v. Capital Bank, 438 So. 2d 932 (Fla. 3d DCA 1983)
- Aetna Ins. Co. v. LaGasse, 223 So. 2d 727 (Fla. 1969)
- In re Estate of Scholtz, 543 So. 2d 219 (Fla. 1989)
- City Nat'l Bank of Fla. v. Tescher, 578 So. 2d 701 (Fla. 1991)
- Ergos v. State, 670 So. 2d 1079 (Fla. 2d DCA 1996)
- Wilson v. Florida Nat. Bank & Trust Co. at Miami, Wilson v. Fla. Nat'l Bank & Trust Co. at Miami, 64 So. 2d 309 (Fla. 1953)
- Dorothy M. Clifton v. Lonnie R. Clifton, Sr., et ux., et al., Clifton v. Clifton, 553 So. 2d 192 (Fla. 5th DCA 1989)
- Schneberger v. Schneberger, 979 So. 2d 981 (Fla. 4th DCA 2008)
- Williams v. Williams, 120 So. 2d 202 (Fla. 3d DCA 1960)

CITED IN

- James Aronson, et al. v. Doreen Aronson, Aronson v. Aronson, 81 So.3d 515 (Fla. 3d DCA 2012)