

SUPREME COURT OF TENNESSEE

Holley v. Marks

535 S.W.2d 861 (Tenn. 1976) · Decided April 5, 1976

SUMMARY

The Tennessee Supreme Court considered whether a contingent remainderman could periodically inspect a life tenant's records to determine whether the life tenant was improperly disposing of estate property. The court held that, absent allegations or proof of a real danger that the estate would be wrongfully depleted, the remainderman was not entitled to the requested relief and affirmed dismissal of the complaint.

CASE DETAILS

COURT	Supreme Court of Tennessee
WRITING FOR THE COURT	Brock, Justice; Brock; Fones; Cooper; Harbison; Henry
JURISDICTION	Tennessee
DECIDED	April 5, 1976
DISPOSITION	affirmed
PROCEDURAL POSTURE	A contingent remainderman sought periodic inspection of the life tenant's records to determine whether she was improperly disposing of estate property. The Chancellor dismissed the complaint, and the Tennessee Supreme Court affirmed.
PRECEDENTIAL VALUE	Published Tennessee Supreme Court opinion; precedential within Tennessee unless subsequently limited or overruled.
PARTIES	Johnnie Lou Holley v. Nana Lou Reeves Marks

TOPICS

- probate
- trusts
- equitable relief
- beneficiary litigation
- remedies

PRACTICE AREAS

- Probate
- Trusts and estates
- Equitable remedies

QUESTIONS PRESENTED

1. Whether a contingent remainderman is entitled to periodic inspection of a life tenant's records absent an allegation or showing that the life tenant is wrongfully destroying or disposing of the estate.

HOLDINGS

1. A remainderman is not entitled to the requested equitable relief where the record contains no allegation or proof that the life tenant is dealing with the property in a manner unauthorized by the will or that there is a real danger of destruction of the estate.

KEY QUOTATIONS

“But the complainant who cannot demonstrate to the court's satisfaction that there is real danger of destruction of the estate is entitled to no relief.” (535 S.W.2d at 862)

FACTUAL BACKGROUND

Adlay Marks's will gave his entire estate to his wife, Nana Lou Marks, for life, to be used as she saw fit, with the remainder to Johnnie Lou Holley if Holley survived the life tenant. Holley sought periodic inspection of Marks's records to determine whether Marks was exceeding her rights by giving estate property away. The record contained no allegation or proof that Marks was dealing with the property in a manner unauthorized by the will.

PROCEDURAL HISTORY

Johnnie Lou Holley filed a complaint seeking periodic access to Nana Lou Marks's records concerning property held under Adlay Marks's will. The Chancellor dismissed the complaint because the record contained no allegation or proof that Marks was dealing with the property in a manner unauthorized by the will. The Supreme Court of Tennessee affirmed the dismissal and assessed appellate costs against Holley.

DISPOSITION

affirmed

CASES CITED

- Redman v. Evans, 184 Tenn. 404, 199 S.W.2d 115 (1947)
- Jones v. Jones, 225 Tenn. 12, 462 S.W.2d 872 (1971)
- Black v. Pettigrew, 38 Tenn. App. 1, 270 S.W.2d 196 (1953)
- Morrow v. Person, 195 Tenn. 370, 259 S.W.2d 665 (1953)
- Vaden v. Vaden, 38 Tenn. 444 (1858)
- Henderson v. Vaulx, 18 Tenn. 30 (1836)
- Downing v. Johnson, 45 Tenn. 229 (1867)

OPINION

BROCK, J.

535 S.W.2d 861 (1976) Johnnie Lou HOLLEY, Appellant, v. Nana Lou Reeves MARKS, Appellee. Supreme Court of Tennessee. April 5, 1976. *862 Jack B. Henry, Pulaski, for appellant. David E. Cheatham, Pulaski, for appellee. OPINION BROCK, Justice.

The plaintiff in this case, Johnnie Lou Holley, has a contingent remainder interest in the estate of Adlay Marks, who died on February 10, 1974. In his will, Marks left his entire estate to his wife, Nannie L. Marks, defendant, for her life, to be used "as she sees fit." Whatever remains at the death of Mrs. Marks is given by the will to Johnnie Lou Holley if she survive the life tenant.

The only relief sought is that the plaintiff be allowed periodically to inspect the defendant's records to determine if she is exceeding her rights in the property by giving it away. Testamentary gifts for the use of a life tenant "as he sees fit" have been construed as conveying a life estate with power to dispose of the corpus at least to the extent necessary to provide support and maintenance to the donee.

Redman v. Evans, 184 Tenn. 404, 199 S.W.2d 115 (1947); Jones v. Jones, 225 Tenn. 12, 462 S.W.2d 872 (1971). But the donee does not have the right to make a gift of the property. Black v. Pettigrew, 38 Tenn. App. 1, 270 S.W.2d 196 (1953). Even though a life tenant has been called a quasi trustee for the remaindermen, Morrow v. Person, 195 Tenn. 370, 259 S.W.2d 665 (1953), he has no duty to account for his use of the property.

Vaden v. Vaden, 38 Tenn. 444 (1858). Security may be required, or in a proper case an equitable remedy may be granted, to prevent the life tenant from wrongfully defeating the remainder interest. Henderson v. Vaulx, 18 Tenn. 30 (1836). But the complainant who cannot demonstrate to the court's satisfaction that there is real danger of destruction of the estate is entitled to no relief.

Downing v. Johnson, 45 Tenn. 229 (1867). In this record there is neither allegation nor proof that the defendant is dealing with the property in any manner not authorized by the will. Hence, no showing is made to justify the relief sought.

The Chancellor was, therefore, correct in dismissing the complaint. Costs incurred in this Court will be borne by the plaintiff, Johnnie Lou Holley. FONES, C.J., and COOPER and HARBISON, JJ., concur. HENRY, J., not participating.