COURT OF APPEALS OF THE STATE OF NEW YORK

Eredics v. Chase Manhattan Bank, N.A.

100 N.Y.2d 106, 790 N.E.2d 1166, 760 N.Y.S.2d 737 (2003) · Decided May 8, 2003

SUMMARY

The New York Court of Appeals held that a named beneficiary may waive rights to a Totten trust if the waiver is explicit, voluntary, and made in good faith. The separation agreement at issue did not explicitly waive the plaintiff's beneficiary interest in the accounts, and the decedent had not revoked the trusts through withdrawal, a will, or a qualifying writing filed with the banks. The court therefore affirmed judgment in favor of the plaintiff.

CASE DETAILS

COURT	Court of Appeals of the State of New York
WRITING FOR THE COURT	Chief Judge Kaye; Judge Smith; Judge Ciparick; Judge Wesley; Judge Rosenblatt; Judge Graffeo; Judge Read
JURISDICTION	New York
DECIDED	May 8, 2003
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff sought a declaratory judgment establishing her right to funds in Totten trust accounts. Supreme Court granted plaintiff summary judgment; the Appellate Division affirmed; the Court of Appeals affirmed the Appellate Division.
STANDARD OF REVIEW	De novo review of the legal effect of the separation agreement and the propriety of summary judgment
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Flushing Savings Bank, F.S.B., Demos G. Nicholas v. Rita Eredics, also known as Rita Nicholas

TOPICS

trusts · beneficiary litigation · estate planning · probate · estate litigation

PRACTICE AREAS

trusts and estates · probate · family law

QUESTIONS PRESENTED

1. Whether the separation agreement revoked the Totten trusts under EPTL 7-5.2.
2. Whether a named beneficiary may waive the right to receive funds from a Totten trust notwithstanding the statutory methods for revocation by the depositor.
3. Whether the separation agreement explicitly, voluntarily, and in good faith waived Eredics's beneficial interests in the Totten trust accounts.

HOLDINGS

1. The separation agreement did not revoke the Totten trusts because the depositor did not withdraw the funds, expressly revoke the accounts in his will, or execute and file a qualifying writing with the financial institution.
2. A named beneficiary may waive the right to a Totten trust account, provided that the waiver is explicit, voluntary, and made in good faith.
3. The separation agreement did not waive Eredics's rights as beneficiary because it contained no explicit waiver of the Totten trust interests, and the court would not infer such a waiver from broad general language concerning the parties' property or their estates.

KEY QUOTATIONS

> *"Thus, the statute is clear and precise in prescribing the three ways by which a depositor can revoke a Totten trust: withdrawal of the funds, an express direction in a will and a qualifying writing filed with the bank."* (at 111)

> *"We conclude that a beneficiary also can waive rights in a Totten trust, so long as the waiver is explicit, voluntary and made in good faith."* (at 111-112)

> *"there is no waiver of beneficiary status unless the waiver is explicitly made in the writing"* (at 112)

FACTUAL BACKGROUND

Rita Eredics and Nick G. Nicholas married in 1975, separated in 1990, entered into a formal separation agreement in 1995, and divorced later that year. During the marriage, Nicholas created five Totten trust accounts naming Eredics as beneficiary; he continued to receive statements and pay taxes on the accounts after separation, but did not revoke or modify them before his death in 1998. The accounts, which represented approximately 36% of his taxable estate, were not mentioned in his will, and Eredics sought a declaration that she was entitled to the funds.

PROCEDURAL HISTORY

After decedent's death, plaintiff sued the banks and decedent's estate to establish her ownership of five Totten trust accounts. Supreme Court held that the separation agreement did not revoke the trusts and rejected the estate's waiver theory, granting plaintiff summary judgment. The Appellate Division affirmed, and the Court of Appeals affirmed on the grounds that there was neither statutory revocation by the depositor nor an explicit, voluntary, good-faith waiver by the beneficiary.

DISPOSITION

affirmed

CASES CITED

- Matter of Totten, 179 N.Y. 112 (1904)
- Matthews v. Brooklyn Savings Bank, 208 N.Y. 508 (1913)
- Matter of Farrell, 298 N.Y. 129 (1948)
- Hessen v. McKinley, 155 App. Div. 496 (1st Dep't 1913), aff'd, 209 N.Y. 532 (1913)
- Tibbitts v. Zink, 231 App. Div. 339 (3d Dep't 1931)
- Matter of Krycun, 24 N.Y.2d 710 (1969)
- Matter of Beagan, 112 Misc. 292 (Sur. Ct. 1920)
- Silber v. Silber, 99 N.Y.2d 395 (2003)
- Matter of Maruccia, 54 N.Y.2d 196, 205 (1981)

INSTRUCTIONS FOR AN AI ASSISTANT