

SUPREME COURT OF MISSISSIPPI

Robert G. Germany v. Ginger Germany

Germany v. Germany · No. No. 2011-IA-01287-SCT · Decided August 12, 2011

SUMMARY

The Mississippi Supreme Court reviewed an interlocutory appeal from the denial of Robert Germany's motion to sever and transfer claims brought by Ginger Germany from Madison County Circuit Court to their pending divorce proceeding in Hinds County Chancery Court. The court held that claims involving breach of contract, fraud, constructive trust, unjust enrichment, conversion, accounting, and injunctive relief were substantively equitable or related to divorce and alimony and should be transferred to chancery court. Claims for intentional and negligent infliction of emotional distress against Robert, and the alienation-of-affection claim against the alleged paramour, were properly retained in circuit court.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Waller, C.J.; Randolph, P.J.; Lamar, J.; Chandler, J.; Pierce, J.; Coleman, J.; Dickinson, P.J.; King, J.; Kitchens, J.
JURISDICTION	Mississippi
DECIDED	August 12, 2011
DOCKET	No. 2011-IA-01287-SCT
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Interlocutory appeal from the Madison County Circuit Court's denial of Robert Germany's motion to sever and transfer claims against him to the parties' pending divorce proceeding in the Hinds County Chancery Court, and from the denial of an alternative motion to stay.
STANDARD OF REVIEW	De novo review applies to subject-matter jurisdiction and to a ruling on a motion to transfer between chancery and circuit court for lack of subject-matter jurisdiction.
PRECEDENTIAL VALUE	Published, en banc Mississippi Supreme Court opinion; precedential.
PARTIES	Robert G. Germany v. Ginger Germany

TOPICS

family law procedure

subject matter jurisdiction

interlocutory appeal

divorce

equitable distribution

PRACTICE AREAS

family law

civil procedure

appellate procedure

equitable remedies

subject-matter jurisdiction

QUESTIONS PRESENTED

1. Whether the Madison County Circuit Court erred by refusing to sever and transfer Ginger's claims against Robert that were substantively equitable or related to the parties' pending divorce and alimony proceedings to the Hinds County Chancery Court.
2. Whether Ginger's claims for intentional and negligent infliction of emotional distress against Robert and her claims against Holly Morgan were legal claims that should remain in circuit court.

HOLDINGS

1. In determining whether a claim belongs in circuit or chancery court, the court must examine the substance rather than the form of the claim, looking to the face of the complaint, the nature of the controversy, and the relief sought.
2. Ginger's breach-of-contract claim against Robert was substantively related to the parties' marriage, equitable distribution, and potential alimony or separate maintenance, and therefore had to be transferred to the pending chancery-court divorce proceeding.
3. Ginger's fraud, deceit, and deception claim against Robert was related to divorce and alimony and had to be transferred to chancery court because it arose from the same marital-finance allegations as the equitable breach-of-contract claim and sought an equal share of the tobacco money.
4. Ginger's claims for a constructive trust and unjust enrichment were equitable claims and, because they sought recovery of marital assets based on the same facts involved in the divorce, had to be transferred to chancery court.
5. Ginger's conversion claim against Robert was substantively a request for distribution of marital assets and therefore had to be transferred to the pending divorce action.
6. The circuit court properly could transfer Ginger's accounting claim because the accounts were mutual and complicated, and the chancery court was already examining the parties' financial records in the divorce proceeding.
7. Ginger's claims against Robert for intentional and negligent infliction of emotional distress were legal claims seeking monetary and punitive damages and were to remain in circuit court.
8. Ginger's alienation-of-affection claim against Holly Morgan was properly before the circuit court.
9. Ginger's requests for injunctive relief concerning the parties' debts, homes, accounts, and wine collection were equitable and directly related to winding down the marital relationship, so they had to be decided in the divorce action.

KEY QUOTATIONS

“one must look at the substance, and not the form, of the claim in order to determine whether the claim is legal or equitable” (§ 10)

“Ginger’s claims against Robert that are more closely related to the marital relationship and financial affairs of the parties should be decided in chancery court.” (§ 34)

FACTUAL BACKGROUND

Ginger and Robert Germany lived together before marrying and, during their marriage, commingled and managed substantial assets, including inheritance funds, homes, a wine collection, and proceeds from Robert's tobacco litigation settlement. After Robert announced that he wanted a divorce and allegedly engaged in an affair, Ginger sued him and Holly Morgan in circuit court for damages, equitable relief, an accounting, and injunctive relief. Robert had already filed a divorce action in chancery court, where Ginger had sought and received temporary separate maintenance and where the parties' marital finances were being examined.

PROCEDURAL HISTORY

Ginger Germany filed a Madison County Circuit Court complaint against Robert Germany and Holly Morgan asserting contract, tort, equitable, accounting, and injunctive claims. Robert subsequently filed for divorce in the Hinds County Chancery Court and moved to dismiss, transfer, or stay the circuit-court action. The circuit court denied his motion, and the Mississippi Supreme Court granted interlocutory review but addressed only the severance-and-transfer issue because it was dispositive.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the Madison County Circuit Court's denial of Robert's motion to sever and transfer, and remand with instructions to transfer Ginger's claims against Robert that are equitable or relate to the pending divorce to the ongoing divorce action in the Chancery Court of the First Judicial District of Hinds County. The claims against Robert for intentional and negligent infliction of emotional distress and the claims against Holly Morgan remain in circuit court.

CASES CITED

- Trustmark Nat’l Bank v. Johnson, 865 So. 2d 1148, 1150 (Miss. 2004)
- Union Nat’l Life Ins. Co. v. Crosby, 870 So. 2d 1175, 1178 (Miss. 2004)
- W. Horace Williams Co. v. Fed. Credit Co., 21 So. 2d 582, 583 (Miss. 1945)
- Derr Plantation, Inc. v. Swarek, 14 So. 3d 71, 716 (Miss. 2009)
- RAS Family Partners, LP v. Onnam Biloxi, LLC, 968 So. 2d 926, 928 (Miss. 2007)
- Carson v. Carson, 40 Miss. 349, 351 (Miss. 1856)
- Ferguson v. Ferguson, 639 So. 2d 921, 928 (Miss. 1994)
- Daigle v. Daigle, 626 So. 2d 140, 145 (Miss. 1993)

- *Lynch v. Lynch*, 616 So. 2d 294, 296 (Miss. 1993)
- *Robinson v. Robinson*, 554 So. 2d 300, 305 (Miss. 1989)
- *Johnson v. Johnson*, 650 So. 2d 1281, 1287 (Miss. 1994)
- *Hemsley v. Hemsley*, 639 So. 2d 909, 914 (Miss. 1994)
- *Southern Leisure Homes v. Hardin*, 742 So. 2d 1088, 1089-90 (Miss. 1999)
- *Tideway Oil Programs, Inc. v. Serio*, 431 So. 2d 454, 464 (Miss. 1983)
- *McNeil v. Hester*, 753 So. 2d 1057, 1064 (Miss. 2000)
- *Koval v. Koval*, 576 So. 2d 134, 136 (Miss. 1991)
- *Camp v. Roberts*, 462 So. 2d 726, 727 (Miss. 1985)
- *Walter v. Wilson*, 228 So. 2d 597, 598 (Miss. 1969)
- *Saunders v. Alford*, 607 So. 2d 1214 (Miss. 1992)
- *Issaquena Warren Counties Land Co. v. Warren County*, 996 So. 2d 747, 751 (Miss. 2008)
- *McLean v. Green*, 352 So. 2d 1312, 1314 (Miss. 1977)
- *McDonald's Corp. v. Robinson Indus., Inc.*, 592 So. 2d 927, 934 (Miss. 1991)
- *Schmidt v. Catholic Diocese of Biloxi*, 18 So. 3d 814, 822 (Miss. 2009)
- *Scruggs, Millette, Bozeman & Dent, P.A. v. Merkel & Cocke, P.A.*, 804 So. 2d 1000, 1006 (Miss. 2001)