

SUPREME COURT OF FLORIDA

Peacock v. Dubois

105 So. 321 (Fla. 1925) · Decided July 20, 1925

SUMMARY

The Florida Supreme Court reviews a decree canceling a deed conveying a deceased woman's home to a young boarder shortly before her death. The court holds that the circumstances supported a finding of undue influence and that the appellant failed to show the transaction was bona fide. The decree in favor of the woman's children is affirmed.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Terrell; West, C.J.; Whitfield; Ellis; Strum; Brown
JURISDICTION	Florida
DECIDED	July 20, 1925
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appellant appealed from a chancery decree canceling and setting aside a deed conveying the decedent's home to him on grounds of fraud and undue influence.
STANDARD OF REVIEW	In equity, every presumption favors the correctness of the trial court's ruling, and a decree based largely or solely on factual questions will not be disturbed unless clearly erroneous.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion
PARTIES	George L. Peacock v. Kenneth H. DuBois, Grace DuBois Whitcomb

TOPICS

- deeds
- equitable relief
- appellate procedure
- standard of review
- real estate

PRACTICE AREAS

- real estate
- probate
- equity
- appellate procedure

QUESTIONS PRESENTED

1. Whether the amended bill sufficiently alleged fraud and undue influence.

2. Whether the evidence was sufficient to sustain the chancellor's decree canceling the deed for fraud and undue influence.
3. Whether the transaction was presumed to have been obtained by undue influence and, if so, whether Peacock produced sufficient evidence that it was bona fide and free from undue influence.

HOLDINGS

1. The court would not consider the challenge to the sufficiency of the amended bill because Peacock did not test the pleading by demurrer or other appropriate pleading in the trial court.
2. A decree based largely or solely on questions of fact will not be disturbed unless clearly erroneous.
3. Undue influence sufficient to invalidate a deed exists when the grantor's free agency is destroyed and the act becomes the product of another person's will rather than the grantor's own will. The circumstances of this transaction created a duty for Peacock to show that it was bona fide and not obtained through undue influence, and his evidence was inadequate; therefore, cancellation of the deed was proper.
4. The common-law doctrine of gift causa mortis does not extend to real estate in Florida; accordingly, the court declined to address the prerequisites of such a gift.

KEY QUOTATIONS

“The rule seems to be well settled that undue influence justifying the setting aside of the will, deed, or other contract must be such as to dethrone the free agency of the person making it and rendering his act the product of the will of another instead of his own.” (166)

“The fact of the execution of the deed on the showing made by the record, we think, imposes on the appellant the duty of showing that the transaction was bona fide and that it was not secured by undue influence.” (167)

FACTUAL BACKGROUND

Anna DuBois Robie moved to Florida and purchased the home that was the subject of the dispute. At age 57, physically infirm and anticipating an operation that proved fatal, she conveyed the home and other property valued at approximately \$15,000 to George L. Peacock, a man in his late twenties who had boarded with her for roughly three months and whom she had known for less than two months. She died intestate shortly afterward, leaving a son and daughter, and the property represented virtually all she owned.

PROCEDURAL HISTORY

The appellees filed suit in the trial court to cancel and set aside a deed executed by Anna DuBois Robie in favor of Peacock. After issue was joined, testimony was taken before a special master, and the chancellor entered a decree for the appellees. Peacock appealed, challenging the sufficiency of the evidence and also arguing that the amended bill inadequately pleaded fraud and undue influence; the Supreme Court declined to consider the pleading challenge because it had not been preserved below and affirmed.

DISPOSITION

affirmed

CASES CITED

- Thomas Brothers Company v. Price, 56 Fla. 854, 48 So. 262
- Vaughan's Seed Store v. Stringfellow, 56 Fla. 708, 48 So. 410
- Hancock v. State Exchange Bank, 70 Fla. 243, 70 So. 211
- Hartford Fire Ins. Co. v. Brown, 60 Fla. 83, 53 So. 838
- Viser v. Willard, 60 Fla. 395, 53 So. 501
- Powell v. Powell, 77 Fla. 181, 81 So. 105
- Whidden v. Rogers, 78 Fla. 93, 82 So. 611
- Sandlin v. Hunter Company, 70 Fla. 514, 70 So. 553
- Heath v. Capital Savings Bank and Trust Co., 79 Vt. 301, 64 A. 1127
- Cooper v. Harlow, 163 Mich. 210, 128 N.W. 259
- Grove v. Spixer, 72 Md. 300, 20 A. 144
- Frust v. Green, 86 Md. 494, 39 A. 863
- Howard v. Farr, 115 Minn. 86, 131 N.W. 1071
- Myatt v. Myatt, 149 N.C. 137, 62 S.E. 887
- Prescott v. Johnson, 91 Minn. 273, 97 N.W. 891
- Johnson v. Farrell, 215 Ill. 542, 74 N.E. 760
- Allday v. Cage, 148 S.W. 838 (Tex.)
- Council v. Mayhew, 172 Ala. 295, 55 So. 314
- Mullen v. Johnson, 157 Ala. 262, 47 So. 584
- Bust v. Moxom, 157 Mo. App. 342, 138 S.W. 74
- Burnett v. Smith, 93 Miss. 566, 47 So. 117
- Dingman v. Romine, 141 Mo. 466, 42 S.W. 1087
- Franalín v. Belt, 130 Ga. 37, 60 S.E. 146
- Francis v. Wilkinson, 147 Ill. 370, 35 N.E. 150
- Wilcox v. Wilcox, 165 Ill. 454, 46 N.E. 369
- Marx v. McGlynn, 88 N.Y. 357
- DuBois v. Kell, 90 S.C. 196, 71 S.E. 371
- Woodville v. Woodville, 63 W. Va. 286, 60 S.E. 140
- In re Worrall's Appeal, 110 Pa. 349, 1 A. 380
- Bradley et ux. v. Hunt, 23 Am. Dec. 597
- Basket v. Hassell, 107 U.S. 602
- Caylor v. Caylor, 22 Ind. App. 666, 52 N.E. 465
- Johnson v. Colly, 101 Va. 414, 44 S.E. 721

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