

DISTRICT COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT

Joan Johnson v. Lee Townsend, Leslie Lynch, Elizabeth Denecke and Lisa Einhorn

No. 4D18-432, 2018 WL 5302928 (Fla. 4th DCA 2018) · No. 4D18-432

SUMMARY

In Johnson v. Townsend, the Florida Fourth District Court of Appeal held that a surviving spouse’s petition to perfect a community property interest is a “claim” under section 731.201(4), Florida Statutes, and is subject to the three-month nonclaim period under section 733.702(1) and the two-year statute of repose under section 733.710(1). The court rejected the common law trust exception (limited to express trusts or clearly defined means) and the statutory lien exception (requiring a duly recorded mortgage, security interest, or possession of personal property), and ruled that the Florida Uniform Disposition of Community Property Rights at Death Act does not exempt such claims from the two-year deadline.

CASE DETAILS

COURT	District Court of Appeal of Florida, Fourth District
WRITING FOR THE COURT	Gerber, C.J.; Gerber; Levine; Klingensmith
JURISDICTION	Florida
DOCKET	4D18-432
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Karen M. Miller, Judge; L.T. Case No. 502015CP001096XXXNB. The wife appeals from a final order granting the decedent's daughters' motion to strike her petition to determine community property interest.
STANDARD OF REVIEW	de novo
PRECEDENTIAL VALUE	binding_in_jurisdiction
PARTIES	Joan Johnson v. Lee Townsend, Leslie Lynch, Elizabeth Denecke, Lisa Einhorn

TOPICS

probate procedure

probate

family law

statute of limitations

trusts

PRACTICE AREAS

Probate and Estate

Community Property

Wills and Trusts

QUESTIONS PRESENTED

1. Whether the wife's petition for community property interest is a 'claim' under Florida's probate code subject to statutory deadlines.
2. Whether the common law 'trust exception' exempts the wife's community property interest from the nonclaim statutes.
3. Whether the statutory 'lien exception' exempts the wife's community property interest from the nonclaim statutes.
4. Whether the absence of an explicit deadline in the Florida Uniform Disposition of Community Property Rights at Death Act exempts the wife's petition from the two-year statute of repose under section 733.710(1).

HOLDINGS

1. A surviving spouse's community property interest is a liability of the decedent and constitutes a 'claim' as defined by section 731.201(4), Florida Statutes.
2. A claim for personal property in the possession of the personal representative must be filed within three months after the first publication of notice to creditors, or it is barred.
3. Any claim or cause of action against the decedent must be filed within two years of the decedent's death, regardless of whether letters of administration have been issued.
4. The common law 'trust exception' is limited to situations where the decedent clearly held property by way of an express trust or some other clearly defined means; a resulting trust from community property does not suffice.
5. Section 733.710(3) only excepts liens that are duly recorded mortgages or security interests, or liens of persons in possession of personal property; an equitable lien arising from a community property interest does not qualify.
6. Section 733.710(1) applies to all claims and causes of action against the decedent, regardless of other provisions of the code; the community property act's silence on deadlines does not create an exemption.

KEY QUOTATIONS

“Ruling otherwise would have left no deadline by which the wife had to file a petition to perfect her community property interest, contrary to section 733.710(1).” (at 10)

FACTUAL BACKGROUND

Decedent died on January 21, 2015. His wife was appointed personal representative. The wife and decedent had previously lived in Texas, a community property state, and an investment asset was acquired and titled in the decedent's name while they were domiciled there. More than two years after the decedent's death, the wife filed a petition to determine and perfect her 50% community property interest in that asset.

PROCEDURAL HISTORY

The wife, as personal representative, filed a petition to determine and perfect her surviving spouse's community property interest in an investment asset more than two years after the decedent's death. The decedent's daughters moved to strike the petition as an untimely claim. The circuit court granted the motion, and the wife appealed.

DISPOSITION

affirmed

CASES CITED

- Headley v. City of Miami, 215 So. 3d 1 (Fla. 2017)
- Inmon v. Air Tractor, Inc., 74 So. 3d 534 (Fla. 4th DCA 2011)
- Quintana v. Ordonio, 195 So. 2d 577 (Fla. 3d DCA 1967)
- Scott v. Reyes, 913 So. 2d 13 (Fla. 2d DCA 2005)
- Madrigal v. Madrigal, 115 S.W.3d 32 (Tex. App. San Antonio 2003)

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