SUPREME COURT OF FLORIDA

Wells Fargo Bank, N.A., et al. v. Pruco Life Insurance Company

Wells Fargo Bank, N.A., et al. v. Pruco Life Insurance Company, 200 So. 3d 60 (Fla. 2016) (Fla. 2016) · No. SC15-382

SUMMARY

The Florida Supreme Court held that under the plain language of Florida's incontestability statute (Fla. Stat. § 627.455), a life insurance policy that had the required insurable interest at its inception is incontestable after two years, even if the policy was procured as part of a stranger-originated life insurance (STOLI) scheme. The court ruled that because the statute enumerates specific exceptions (nonpayment of premiums, disability, and accidental death provisions) and does not include a STOLI or lack-of-insurable-interest exception, no other exceptions may be implied. The insurable interest requirement of § 627.404(1) was satisfied where the named beneficiaries were the insured's spouse or daughter, and the court declined to create a judicial exception for STOLI policies, leaving any policy change to the legislature.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Polston; Labarga; Pariente; Lewis; Quince; Perry
JURISDICTION	Florida
DOCKET	SC15-382
DISPOSITION	other
PROCEDURAL POSTURE	Certified questions from the United States Court of Appeals for the Eleventh Circuit
STANDARD OF REVIEW	de novo (statutory interpretation)
PRECEDENTIAL VALUE	controlling
PARTIES	Wells Fargo Bank, N.A., U.S. Bank, N.A. v. Pruco Life Insurance Company

TOPICS

insurance appellate procedure

PRACTICE AREAS

Insurance Law Statutory Interpretation

QUESTIONS PRESENTED

1. Whether a life insurance policy that was part of a STOLI scheme can be challenged as void ab initio for lack of an insurable interest after the two-year contestability period in section 627.455 has expired.
2. Whether section 627.404 requires that an individual with the required insurable interest also procure the insurance policy in good faith.

HOLDINGS

1. A life insurance policy that has the insurable interest required by § 627.404 at its inception becomes incontestable two years after issuance under the plain language of § 627.455, even if the policy originated from a STOLI scheme.
2. The court declined to answer this question, rephrasing the certified questions into one and answering only that question. The good-faith procurement issue was subsumed.

KEY QUOTATIONS

> *"[W]here the Legislature articulates clear exceptions to a statute, 'no other exceptions may be implied.'"* (pp. 7-8)

> *"Whether the insured has an agreement with an insurance agent or broker or a premium financing company at the time the policy is issued that it will be sold, either to an identified person who lacks an insurable interest or, more typically, into a secondary market of insurance policy investors, is a risk the insurer can promptly investigate . . . . Therefore, absent a supervening statute, the defense [that the policy is void for lack of an insurable interest] is subject to the [statutory] incontestability provision[.] To declare that a facially valid policy on which [the insurance company] collected substantial premiums for over four years was never 'in force' is simply a fiction."* (p. 8)

> *"The provision that a policy shall be incontestable after it has been in force during the lifetime of the insured for a period of two years . . . means [that,] within the limits of the coverage the policy shall stand, unaffected by any defense that it was invalid at its inception."* (p. 9)

FACTUAL BACKGROUND

The dispute concerns three STOLI policies. The Berger policy was issued by Pruco in 2006 on Arlene Berger's life for $10 million, naming her husband as beneficiary. It was procured through a scheme involving a fraudulent financial statement and a premium-financing arrangement; the policy was ultimately sold to a client of Wells Fargo. The Guild policies were issued in 2005 to Rosalind Guild, naming her daughter as beneficiary, procured with a similarly fraudulent net-worth statement and financed by a third-party lender, then sold to an investor and ultimately held by U.S. Bank. In both instances, the named beneficiaries had the requisite insurable interest at inception, but the policies were part of pre-arranged plans to transfer them to investors lacking an insurable interest after the incontestability period. Pruco sued to void the policies more than four and seven years after issuance, arguing they were void ab initio due to STOLI schemes.

PROCEDURAL HISTORY

The U.S. Court of Appeals for the Eleventh Circuit certified two questions of Florida law regarding the interplay of Florida's insurable interest statute (section 627.404(1)) and incontestability statute (section 627.455) in STOLI policy disputes. The underlying cases involved Pruco Life Insurance Co. suing Wells Fargo and U.S. Bank to invalidate life insurance policies as void ab initio for lack of insurable interest more than two years after issuance. The district courts reached opposite results, and the Eleventh Circuit consolidated the appeals and certified the questions.

DISPOSITION

other

REMAND INSTRUCTIONS

Returned to the Eleventh Circuit with the rephrased certified question answered in the negative.

CASES CITED

- Thayer v. State, 335 So. 2d 815 (Fla. 1976)
- Citizens Prop. Ins. Corp. v. Perdido Sun Condo. Ass'n, Inc., 164 So. 3d 663 (Fla. 2015)
- Citizens Prop. Ins. Corp. v. Garfinkel, 25 So. 3d 62 (Fla. 5th DCA 2009)
- PHL Variable Ins. Co. v. Bank of Utah, 780 F.3d 863 (8th Cir. 2015)
- Prudential Ins. Co. of Am. v. Prescott, 176 So. 875 (Fla. 1937)
- Paul Revere Life Ins. Co. v. Damus, Ecker, Rosenthal & Marshall, M.D., 864 So. 2d 442 (Fla. 3d DCA 2003)