NEW YORK SURROGATE'S COURT

In re the Estate of Goodwin

16 Mills Surr. 513 (1916) · Decided May 15, 1916

SUMMARY

The court considers whether trustee commissions should be deducted in determining the taxable interests of legatees in the decedent's estate. It holds that the executors are entitled to commissions on the entire estate and trustee commissions on the trust fund established for the decedent's wife, while addressing limitations on additional commissions after her death. The court also finds that the appraiser incorrectly valued the sons' surviving life estates and reverses the tax order for correction.

CASE DETAILS

COURT	New York Surrogate's Court
WRITING FOR THE COURT	Fowler, S.
JURISDICTION	New York
DECIDED	May 15, 1916
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The executors appealed from an order fixing a transfer tax, challenging the appraiser's refusal to deduct trustee commissions in calculating the taxable interests of the legatees.
PRECEDENTIAL VALUE	Published state court opinion
PARTIES	Executors of the decedent's estate v. State Comptroller

TOPICS

transfer tax · probate procedure · trust administration · estate administration · appellate procedure

PRACTICE AREAS

probate · transfer tax · estate administration · trust administration

QUESTIONS PRESENTED

1. Whether the executors were entitled to deduct commissions earned in their capacity as trustees, in addition to executor commissions, when determining the taxable interests of the legatees.

2. Whether the trustees holding the wife's trust were entitled to additional trustee commissions after the wife's death and before termination of the successor trusts.
3. Whether the trustee designated to act after the wife's death was entitled to full trustee commissions on the value of the trust fund received and paid out by him.
4. Whether the sons' surviving life estates in the trust fund were improperly valued by the appraiser.

HOLDINGS

1. Executors are entitled to commissions as executors upon the entire estate and to additional commissions as trustees upon the thirty-six one-hundredths constituting the trust fund held for the decedent's wife.
2. The two trustees who held the fund during the wife's life were not entitled to extra commissions for continuing to act as trustees after her death and before termination of the three successor trusts.
3. Henry S. Robinson, who was designated to act as trustee after the wife's death, was entitled to full trustee commissions upon the value of the trust fund received and paid out by him.
4. Each son's interest in the trust fund was a surviving life estate in one-third of the fund, rather than a surviving life estate in twelve one-hundredths of the fund.

KEY QUOTATIONS

> *"They are therefore entitled to commissions as executors upon the entire estate, and to commissions as trustees upon the thirty-six one-hundredths constituting the trust fund directed to be held for the- benefit- of his wife."* (16 Mills Surr. at 513-14)

> *"The interest of each of the sons in this fund is a surviving life estate in -one-third thereof, and not a surviving life estate in twelve -one-hundredths thereof as reported by the appraiser."* (16 Mills Surr. at 514)

FACTUAL BACKGROUND

The decedent's will directed payment of debts and funeral expenses, made personal-property and residuary bequests to his wife, and placed thirty-six one-hundredths of the estate in trust for her life. Upon her death, the trust fund was to be divided into three trusts for the decedent's sons. The executors also acted or were designated to act as trustees, and the dispute concerned the commissions deductible in fixing the transfer tax and the valuation of the sons' future life interests.

PROCEDURAL HISTORY

The appraiser deducted commissions payable to the executors in their capacity as executors but refused to deduct additional commissions claimed for their service as trustees. The Surrogate's Court reviewed the tax-fixing order, determined that the appraiser had made errors concerning both trustee commissions and the valuation of the sons' surviving life estates, reversed the order, and remitted the appraiser's report for correction.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The order fixing the transfer tax was reversed, and the appraiser's report was remitted for correction consistent with the court's rulings on commissions and the valuation of the sons' surviving life estates.

OPINION

FOWLER, J.

Fowler, S.— The executors of the decedent’s estate have appealed from the-order fixing tax, and contend-that the appraiser erred in refusing, to deduct trustees’ commissions from' the assets of the estate in ascertaining the value of the taxable interests of the legatees.

The appraiser deducted executors’ commissions, but refused to deduct in addition thereto the commissions claimed by the executors in their capacity as trustees. The testator directed the payment of his debts and funeral expenses and then bequeathed certain articles of personal property to his wife. He also bequeathed to her “ ten one-hundredths of all the rest, residue and remainder ” of his estate,. “ provided she survive me for the period of one year.” He gave thirty-six one-hundredths of his estate to “ those of the executors of this will who shall accept the office of trustee ” in trust to pay the income thereof to his wife, quarterly, during-her life; upon her death he gave the said thirty-six one-hun*514dredths to Walter L. Goodwin, Philip L. Goodwin and Henry S. Robinson in trust to collect the income and pay it quarterly in equal portions to hi» three sons.

It is apparent from the language of the will that the testator contemplated separate duties for his executors and trustees. As executors it was their duty to collect the assets of the estate, pay the debts and general legacies, divide the residuary estate in accordance with the directions contained in the will, then pay-the aliquot parts to the legatees entitled thereto, and the remaining thirty-six one-hundredths to such of the executors as signify their willingness to act as trustees- of this fund.

They are therefore entitled to commissions as executors upon the entire estate, and to commissions as trustees upon the thirty-six one-hundredths constituting the trust fund directed to be held for the- benefit- of his wife.

The two trustees, however, who hold the trust fund during the life of decedent’® wife are not entitled to extra commissions for acting as trustees of this fund after her death and prior to the termination of the three trust funds into which it shall be divided, but Henry S. Robinson, who is designated by the testator to act as trustee of the trust fund -after the death of the testator’s wife, is entitled to full trustee’s commissions upon the value of the trust- fundi which will be received and paid put by him.

The appraiser also erred in ascertaining the value of the surviving life estate of each of the decedent’s son® in the trust fund held for the benefit of decedent’s wife during her life. The interest of each of the sons in this fund is a surviving life estate in -one-third thereof, and not a surviving life estate in twelve -one-hundredths thereof as reported by the appraiser.

The order fixing tax will be reversed, and the report of the appraiser remitted to him for correction a® indicated. Order reversed.