

SUPREME COURT OF OKLAHOMA

Lucas v. Tayrien, 207 Okla. 401

250 P.2d 16 (1952) · No. No. 35606 · Decided November 5, 1952

SUMMARY

The Oklahoma Supreme Court held that an alleged heir's petition for distribution was premature because it was filed before the executrix's final account and petition for distribution. Because the heirship claim was disputed, the county court lacked authority to make a final determination of heirship during partial distribution; the order was therefore nonfinal and nonappealable, and the appeal was dismissed.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Bingaman, J.; Halley, V.C.J.; Welch, J.; Gibson, J.; Davison, J.; O'Neal, J.
JURISDICTION	Oklahoma
DECIDED	November 5, 1952
DOCKET	No. 35606
DISPOSITION	dismissed
PROCEDURAL POSTURE	Emma Lucas appealed from an order sustaining the executrix's motion for judgment on the pleadings, which operated as a motion to dismiss her petition seeking distribution as an allegedly omitted heir. The county court sustained the motion, and the district court affirmed.
STANDARD OF REVIEW	The court reviewed whether the order constituted a final, appealable judgment and whether the county court had authority to determine disputed heirship in a partial-distribution proceeding.
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court opinion
PARTIES	Emma Lucas v. Tayrien, executrix of the estate of Charles A. Tayrien

TOPICS

- probate procedure
- appellate procedure
- final judgment rule
- estate administration
- motion for judgment on the pleadings

PRACTICE AREAS

Probate

Appellate procedure

Civil procedure

QUESTIONS PRESENTED

1. Whether Emma Lucas's petition asserting an omitted-heir right to distribution was premature because it was filed before the final account and petition for distribution.
2. Whether a county court may finally determine disputed heirship in a proceeding for partial distribution.
3. Whether the county court's order sustaining the motion to dismiss was a final, appealable judgment.

HOLDINGS

1. The petition was premature because it was filed before the executrix's final account and petition for distribution and did not comply with the statutory provisions governing an omitted heir's claim.
2. When the right of an alleged heir to inherit is disputed, the county court may not determine heirship in a partial-distribution proceeding because such a determination would not be final.
3. The order was not a final judgment or an appealable order because the purported determination of heirship was void and did not affect a substantial right of the parties.

KEY QUOTATIONS

"A determination of heirship upon partial distribution in the nature of things would not be final, and as we interpret the statute, it could not be made at all if the heirship to the estate was disputed." (402)

FACTUAL BACKGROUND

Charles A. Tayrien's will was admitted to probate on April 6, 1951, and the executrix began administering the estate. Emma Lucas, who was not named in the will, alleged that she was Tayrien's daughter and had been unintentionally omitted, entitling her to an undivided one-third interest. She filed her petition before the executrix's final report and before proceedings to determine heirship or distribute the estate, and the executrix disputed Lucas's right to inherit.

PROCEDURAL HISTORY

Charles A. Tayrien's will was admitted to probate in the Washington County Court. Before the executrix filed a final report and before heirship or distribution proceedings began, Emma Lucas filed a petition for distribution alleging that she was the decedent's daughter and had been unintentionally omitted from the will. The county court dismissed the petition, the district court affirmed, and the Supreme Court of Oklahoma dismissed the appeal because the order was not final or appealable.

DISPOSITION

dismissed

CASES CITED

- Boyes' Estate v. Boyes, 184 Okla. 438, 87 P.2d 1102
- In re Coyne's Estate, 103 Okla. 279, 229 P. 630

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