

CALIFORNIA COURT OF APPEAL, FOURTH DISTRICT, DIVISION ONE

Harrod v. Pacific Southwest Airlines

118 Cal. App. 3d 155, 173 Cal. Rptr. 68 (Cal. Ct. App. 1981) · No. 22576 · Decided April 17, 1981

SUMMARY

The California Court of Appeal affirmed dismissal of Garry S. Harrod's wrongful-death action arising from the crash of Pacific Southwest Airlines Flight 182. The court held that an unmarried cohabiting partner, characterized as a meretricious spouse, was not an heir entitled to sue under California Code of Civil Procedure section 377. It also rejected Harrod's equal-protection challenge and held that wrongful-death claims are purely statutory.

CASE DETAILS

COURT	California Court of Appeal, Fourth District, Division One
WRITING FOR THE COURT	Gerald Brown, Presiding Justice; Cologne, Justice; Staniforth, Justice
JURISDICTION	California
DECIDED	April 17, 1981
DOCKET	22576
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from a judgment dismissing his wrongful-death action after the trial court sustained defendants' demurrer without leave to amend.
STANDARD OF REVIEW	The court reviewed the sustaining of the demurrer and the statutory and constitutional questions presented.
PRECEDENTIAL VALUE	Published California Court of Appeal opinion
PARTIES	Garry S. Harrod v. Pacific Southwest Airlines, Gibbs Flite Center, Inc.

TOPICS

- wrongful death
- equal protection
- motions to dismiss
- statutory interpretation
- civil procedure

PRACTICE AREAS

- torts
- wrongful death
- constitutional law
- civil procedure

QUESTIONS PRESENTED

1. Whether a meretricious spouse qualifies as an heir entitled to bring a wrongful-death action under California Code of Civil Procedure section 377.
2. Whether section 377's exclusion of a meretricious spouse from the class of wrongful-death plaintiffs violates equal protection.
3. Whether Harrod could maintain a wrongful-death action under a common-law cause of action despite not qualifying under section 377.

HOLDINGS

1. A meretricious spouse is not an heir authorized to bring a wrongful-death action under Code of Civil Procedure section 377.
2. Section 377 does not deny a meretricious spouse equal protection of the laws.
3. Harrod could not maintain a common-law wrongful-death action because wrongful death is purely statutory and exists only for persons designated by the Legislature.

KEY QUOTATIONS

"As our Supreme Court recently reaffirmed, the cause of action for wrongful death is purely statutory and "exists only so far and in favor of such person as the legislative power may declare." (158)

FACTUAL BACKGROUND

Paula A. Blake died in the crash of Pacific Southwest Airlines flight 182 on September 25, 1978. Blake and Harrod had lived together since February 1977 and were engaged to marry, but they had not participated in a marriage ceremony. They pooled earnings, agreed to share property accumulated during their relationship, and jointly purchased a house shortly before Blake's death.

PROCEDURAL HISTORY

Harrod sued Pacific Southwest Airlines and Gibbs Flite Center, Inc., seeking damages for the wrongful death of Paula A. Blake. Defendants demurred, arguing that Harrod was not an heir authorized to sue under California Code of Civil Procedure section 377. The trial court sustained the demurrer without leave to amend and dismissed the action; the Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- *Aspinall v. McDonnell Douglas Corp.*, 625 F.2d 325, 327 (9th Cir. 1980)
- *Vogel v. Pan American World Airways, Inc.*, 450 F. Supp. 224, 226 (S.D.N.Y. 1978)
- *Justus v. Atchison*, 19 Cal. 3d 564, 575, 581-582, 139 Cal. Rptr. 97, 565 P.2d 122 (1977)

- Steed v. Imperial Airlines, 12 Cal. 3d 115, 123-124, 115 Cal. Rptr. 329, 524 P.2d 801, 68 A.L.R. 3d 1204 (1974)
- Pritchard v. Whitney Estate Co., 164 Cal. 564, 568, 129 P. 989 (1913)
- Estate of Atherley, 44 Cal. App. 3d 758, 119 Cal. Rptr. 41, 81 A.L.R. 3d 97 (1975)
- Marvin v. Marvin, 18 Cal. 3d 660, 665, 134 Cal. Rptr. 815, 557 P.2d 106 (1976)

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