

SUPREME JUDICIAL COURT OF MAINE

Estate of Miller

2008 ME 176, 960 A.2d 1140 · Decided December 4, 2008

SUMMARY

The Maine Supreme Judicial Court considered whether checking and savings accounts held by a decedent were assets of her estate or passed to her son as a joint account survivor. It affirmed the determination that the checking account was solely owned by the decedent, but vacated the ruling that the savings account was an estate asset because the will could not override the joint account survivorship right. The court also held that claims under Maine’s Improvident Transfer Act and for unjust enrichment were time-barred, and affirmed the denial of attorney fees.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                    |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Judicial Court of Maine                                                                                                                                                                                                                                    |
| WRITING FOR THE COURT | Mead, J.; Alexander; Clifford; Gorman; Levy; Mead; Saufley; Silver                                                                                                                                                                                                 |
| JURISDICTION          | Maine                                                                                                                                                                                                                                                              |
| DECIDED               | December 4, 2008                                                                                                                                                                                                                                                   |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                              |
| PROCEDURAL POSTURE    | Robert Gray appealed from a Waldo County Probate Court judgment declaring a checking account and savings account to be assets of Thelma Miller's estate, ordering Gray to turn over the account proceeds with interest, and denying his request for attorney fees. |
| STANDARD OF REVIEW    | The court reviewed factual findings for clear error, application of law to facts de novo, and the denial of attorney fees for abuse of discretion.                                                                                                                 |
| PRECEDENTIAL VALUE    | Published precedential opinion of the Supreme Judicial Court of Maine                                                                                                                                                                                              |
| PARTIES               | Robert L. Gray v. Roselyn Bean, personal representative of the Estate of Thelma Miller                                                                                                                                                                             |

TOPICS

- probate procedure
- estate administration
- probate
- remedies
- appellate procedure

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether the checking account was solely owned by Miller or jointly owned by Miller and Gray.
2. Whether Miller's will could constitute clear and convincing evidence sufficient to override Gray's right of survivorship in the savings account.
3. Whether the personal representative's improvident-transfer claim was barred by the statute of limitations.
4. Whether the personal representative's unjust-enrichment claim was barred by the statute of limitations.
5. Whether the Probate Court abused its discretion by denying Gray attorney fees.

## HOLDINGS

1. The Probate Court's finding that Miller solely owned the checking account was supported by competent evidence and was not clearly erroneous; therefore, the account was an estate asset subject to distribution under Miller's will.
2. A subsequent will cannot supply the clear and convincing evidence of a different intention required to defeat a surviving joint account owner's rights, and the required contrary intention must exist when the account is created.
3. The improvident-transfer claim accrued when Gray was added as a joint owner in November 1994, because his right to access the account was created then, and the claim was barred by the six-year statute of limitations when filed in 2005.
4. The unjust-enrichment claim accrued, if at all, when Gray was added as a joint owner in November 1994 and was therefore barred by the six-year statute of limitations.
5. The Probate Court did not abuse its discretion by denying Gray's request for costs and attorney fees, notwithstanding his partial success on appeal.

## KEY QUOTATIONS

*"We vacate the judgment with respect to the savings account, and otherwise affirm."* (960 A.2d at 1140)

*"Absent clear and convincing evidence of a contrary intention at the time the joint account was created, Gray assumed sole ownership of the account upon Miller's death by operation of section 6-104(a)."* (960 A.2d at 1146)

*"The entry is: Judgment as to the savings account vacated; remanded for entry of judgment declaring Robert Gray to be the owner of the savings account. In all other respects, judgment affirmed."* (960 A.2d at 1148)

## FACTUAL BACKGROUND

Thelma Miller died testate in 2004, leaving a will that directed her cash and bank accounts to be distributed among her three children. The disputed accounts were a checking account and a savings account held at People's Heritage Bank, with statements eventually addressed to Miller or Robert Gray. The checking account's signature card listed Miller as the sole owner, while the savings account's passbooks and other evidence supported a

finding that Gray had been added as a joint owner before Miller's death. Miller's will was executed after Gray was added to the savings account, and no other clear and convincing evidence showed an intent at account creation to defeat Gray's survivorship rights.

## PROCEDURAL HISTORY

After Miller's death, her personal representative filed an action in the Waldo County Probate Court seeking recovery of two bank accounts from Gray on theories including estate ownership, improvident transfer, and unjust enrichment. Following a four-day trial, the Probate Court found the checking account solely owned by Miller and the savings account jointly owned by Miller and Gray, but held both accounts to be estate assets based on Miller's will. Gray appealed. The Supreme Judicial Court of Maine vacated the judgment concerning the savings account, affirmed the judgment concerning the checking account and attorney fees, and remanded for entry of judgment declaring Gray the owner of the savings account.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

Vacate the judgment as to the savings account and remand for entry of judgment declaring Robert Gray to be the owner of the savings account. Affirm the judgment in all other respects.

## CASES CITED

- Estate of Fournier, 2006 ME 89, ¶ 5, 902 A.2d 852, 853
- Estate of Cormier, 580 A.2d 157, 158 (Me. 1990)
- In re Beauchene, 2008 ME 110, ¶ 7, 951 A.2d 81, 84
- Gile v. Albert, 2008 ME 58, ¶ 8, 943 A.2d 599, 601
- Estate of Sylvester v. Benjamin, 2001 ME 48, ¶ 4, 767 A.2d 297, 299
- Estate of Sylvester v. Benjamin, 2001 ME 48, ¶ 18, 767 A.2d 297, 303
- Me. Mun. Employees Health Trust v. Maloney, 2004 ME 51, ¶¶ 9, 11, 846 A.2d 336, 339-40
- Paffhausen v. Balano, 1998 ME 47, ¶ 6, 708 A.2d 269, 271
- Me. Eye Care Assocs. v. Gorman, 2008 ME 36, ¶ 17, 942 A.2d 707, 712
- Estate of Deschenes, 2003 ME 35, ¶¶ 15-16, 818 A.2d 1026, 1030-31