SUPREME COURT OF APPEALS OF WEST VIRGINIA

Doris E. Young, Individually and in Her Capacity as the Administratrix of the Estate of Gary Ray Young v. Gary Douglas Young

808 S.E.2d 631 (W. Va. 2017) · No. Nos. 16-0603 and 16-0955 · Decided November 2, 2017

SUMMARY

The Supreme Court of Appeals of West Virginia held that an option agreement allowing a decedent's son to purchase the decedent's partnership interest for a fixed price lacked valid consideration and functioned as a testamentary disposition. The court further held that the agreement was unenforceable against the surviving spouse for purposes of determining her elective share. The circuit court's summary judgment was reversed and the case was remanded.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Justice Walker; Chief Justice Loughry; Justice Ketchum
JURISDICTION	West Virginia
DECIDED	November 2, 2017
DOCKET	Nos. 16-0603 and 16-0955
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from summary judgment entered by the Circuit Court of Putnam County in a declaratory-judgment action concerning enforcement of a partnership option agreement and calculation of a surviving spouse's elective share.
STANDARD OF REVIEW	Summary judgment is reviewed de novo.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Appeals of West Virginia.
PARTIES	Doris E. Young, Individually and in Her Capacity as the Administratrix of the Estate of Gary Ray Young v. Gary Douglas Young

TOPICS

elective share | contracts | probate procedure | appellate procedure | standard of review

PRACTICE AREAS

Probate and estate law | Elective share | Contract law | Partnership law | Appellate procedure

QUESTIONS PRESENTED

1. Whether the 1987 option agreement was supported by legally sufficient consideration.
2. Whether the option agreement operated as a testamentary disposition or will substitute.
3. Whether the option price could be enforced against a surviving spouse who elected against the intestate share when the price was substantially below the actual value of the partnership interest.
4. Whether the full value of the decedent's partnership interest had to be included in the augmented estate for calculating the surviving spouse's elective share.

HOLDINGS

1. The option agreement was unsupported by legally sufficient consideration and therefore was unenforceable.
2. The option agreement was a will substitute because it transferred a contract right at death while the decedent retained dominion and enjoyment of the partnership during life.
3. The $50,000 option price was unenforceable against Doris Young for purposes of determining her elective share because the agreement prevented her from receiving the full value of marital property owned by the decedent at death.
4. The full value of the decedent's undivided one-half interest in G&G Investments must be included in the augmented estate for calculating Doris Young's elective share.

KEY QUOTATIONS

> *"If a contract or a contract term is substituted for a will such that it prevents an electing surviving spouse from receiving the full value of his or her distributive share of marital property owned by his or her spouse at the time of death, the contract or contract term is unenforceable as against the electing surviving spouse for the purposes of determination of his or her elective share."* (Syllabus Point 5)

> *"The failure of Decedent and his son to choose a price rationally related to the actual value of the partnership coupled with the fact that this is a one-sided option to convey an interest at death for far less than full and adequate consideration makes it clear that this agreement served as a device for Decedent to pass interest to his son outside of probate and for that reason the Option Agreement is a will substitute."* (p. 17)

> *"Thus, to allow a contract void of consideration to divest a surviving spouse of her distributive share of marital property at the death of her spouse would provide a court-sanctioned means of hiding or diverting assets and would thereby emasculate the elective share statutes and undermine our equitable distribution laws."* (p. 23)

FACTUAL BACKGROUND

Gary Ray Young and his son, Gary Douglas Young, formed a two-person partnership in 1985. In 1987, they amended the partnership agreement and executed a separate option agreement allowing Gary Douglas to purchase his father's one-half partnership interest at death for $50,000, regardless of the interest's actual value. Gary Ray died intestate in 2016 after more than thirty years of marriage to Doris Young; the partnership interest was valued in the record at approximately $1.1 million. Gary Douglas exercised the option, and Doris Young challenged its enforceability and the use of the option price to calculate her elective share.

PROCEDURAL HISTORY

Gary Douglas Young filed a petition for declaratory judgment seeking to compel conveyance of the decedent's partnership interest under a $50,000 option agreement. Doris Young, as administratrix and surviving spouse, counterclaimed and cross-claimed for a declaration of her elective-share rights. The circuit court granted summary judgment for Gary Douglas Young, finding the option agreement supported by consideration and applying its $50,000 price in calculating the elective share. The Supreme Court of Appeals reversed and remanded.

DISPOSITION

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reversed_and_remanded
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REMAND INSTRUCTIONS

Determine the value of the decedent's undivided one-half interest in G&G Investments under the Uniform Partnership Act and include that value in the augmented estate for calculating Doris Young's elective share.

CASES CITED

- Painter v. Peavy, 192 W. Va. 189, 451 S.E.2d 755 (1994)
- Thomas v. Mott, 74 W. Va. 493, 82 S.E. 325 (1914)
- Tabler v. Hoult, 110 W. Va. 542, 158 S.E. 782 (1931)
- Banner Window Glass Co. v. Barriat, 85 W. Va. 750, 102 S.E. 726 (1920)
- First Nat. Bank of Gallipolis v. Marietta Mfg. Co., 151 W. Va. 636, 153 S.E.2d 172 (1967)
- Sturm v. Parish, 1 W. Va. 125 (1865)
- Dan Ryan Builders, Inc. v. Nelson, 230 W. Va. 281, 737 S.E.2d 550 (2012)
- Steinbrecher v. Jones, 151 W. Va. 462, 153 S.E.2d 295 (1967)
- Chesapeake Appalachia, L.L.C. v. Hickman, 236 W. Va. 421, 781 S.E.2d 198 (2015)
- Prudential Preferred Properties v. J and J Ventures, Inc., 859 P.2d 1267 (Wyo. 1993)
- David Roth's Sons, Inc. v. Wright & Taylor, Inc., 343 S.W.2d 389 (Ky. 1961)
- Mongold v. Mayle, 192 W. Va. 353, 452 S.E.2d 444 (1994)
- Bettinger v. Bettinger, 183 W. Va. 528, 396 S.E.2d 709 (1990)
- Johnson v. Farmers & Merchants Bank, 180 W. Va. 702, 379 S.E.2d 752 (1989)
- In re Marriage of Keyser, 820 P.2d 1194 (Colo. Ct. App. 1991)

- Bosserman v. Bosserman, 384 S.E.2d 104 (Va. 1989)
- Rubeinstein v. Mueller, 225 N.E.2d 540 (N.Y. 1967)
- Buehrle v. Buehrle, 126 N.E. 539 (Ill. 1920)
- Keats v. Cates, 241 N.E.2d 645 (Ill. App. Ct. 1968)
- Franks v. Bowers, 116 So. 3d 1240 (Fla. 2013)
- Cedillo v. Farmers Ins. Co. of Idaho, 345 P.3d 213 (Idaho 2015)
- Stuter v. Fortin ex rel. Estate of Stuter, No. 12-1185, 2013 WL 3184642 (W. Va. June 24, 2013)