

SUPREME COURT OF LOUISIANA

Ivan L. Hand, Jr. v. Gwendolyn Robinson Hand

802 So. 2d 560 (La. 2001) · No. 2001-C-0714 · Decided November 28, 2001

SUMMARY

The Louisiana Supreme Court held that, for parties married outside Louisiana, both spouses must be domiciled in Louisiana for the state's legal regime of community of acquets and gains to apply. The court interpreted Louisiana Civil Code articles 2334 and 3523 and rejected reliance on pre-1979 jurisprudence and a repealed statutory provision. The court reversed the court of appeal and reinstated the district court's judgment sustaining the exception of no cause of action.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Johnson, Justice
JURISDICTION	Louisiana
DECIDED	November 28, 2001
DOCKET	2001-C-0714
DISPOSITION	reversed
PROCEDURAL POSTURE	The Louisiana Supreme Court granted the plaintiff's writ application to determine whether Louisiana's community of acquets and gains arises when only one spouse acquires a Louisiana domicile. The district court sustained the defendant's exception of no cause of action, the court of appeal reversed, and the Supreme Court reversed the court of appeal and reinstated the district court judgment.
STANDARD OF REVIEW	The court reviewed the legal interpretation of Louisiana's matrimonial-regime and conflict-of-laws provisions de novo.
PRECEDENTIAL VALUE	Published Louisiana Supreme Court decision; precedential
PARTIES	Ivan L. Hand, Jr. v. Gwendolyn Robinson Hand

TOPICS

- community property
- family law procedure
- statutory interpretation
- legislative intent
- motions to dismiss

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Louisiana's legal regime of community of acquets and gains applies when only one spouse acquires a Louisiana domicile and the other spouse remains domiciled elsewhere.
2. Whether Civil Code article 3523 requires application of Louisiana matrimonial-regime law to movables acquired by the Louisiana-domiciled spouse.
3. Whether the defendant stated a cause of action for partition, equitable distribution, or mismanagement of the plaintiff's Louisiana-acquired movables.

HOLDINGS

1. When parties are married elsewhere, both spouses must be domiciled in Louisiana to create Louisiana's legal regime of community of acquets and gains. Because only Ivan established a Louisiana domicile, no Louisiana community property regime was created.
2. Louisiana Civil Code article 3523 is the applicable conflict-of-laws provision for determining whether movables acquired during marriage are community or separate property.
3. Because no Louisiana community of acquets and gains was ever established, the plaintiff's Louisiana-acquired movables were not subject to Louisiana's community property regime, and the exception of no cause of action was properly sustained.

KEY QUOTATIONS

“After a thorough review of the jurisprudence, we conclude that when parties are married elsewhere, both spouses must be domiciled in Louisiana to create a community property regime.” (561)

“Therefore, while we believe the court of appeal was correct in applying Louisiana's Conflict of Laws provisions, we hold that the court committed reversible error in finding the plaintiff's Louisiana-acquired movables to be community property.” (566)

“For the forgoing reasons, the decision of the court of appeal is REVERSED and the judgment of the district court, sustaining the exception of no cause of action is reinstated.” (566)

FACTUAL BACKGROUND

Ivan L. Hand, Jr. and Gwendolyn Robinson Hand married in South Carolina in 1992. After living in England, the spouses lived separately, with Ivan moving to Louisiana in 1994 while Gwendolyn remained domiciled in South Carolina. In the divorce proceedings, Gwendolyn claimed an interest in movables acquired by Ivan before and during the marriage, including assets acquired while he resided in Louisiana.

PROCEDURAL HISTORY

The plaintiff filed for divorce in the Sixteenth Judicial District Court for St. Mary Parish. The defendant asserted claims to property acquired by the plaintiff before and during the marriage, including property acquired while he resided in Louisiana. The district court held that no Louisiana community property regime ever existed and

sustained an exception of no cause of action. The court of appeal reversed, and the Supreme Court granted writs and reversed the court of appeal.

DISPOSITION

reversed

CASES CITED

- Robinson v. Robinson, 99-3097 (La. 1/18/01), 778 So. 2d 1105
- Succession of Dill, 155 La. 47, 98 So. 752 (1923)
- Fuori v. Fuori, 334 So. 2d 488 (La. App. 1 Cir. 1976)

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