

NEBRASKA SUPREME COURT

Beverly J. Seid v. Rita J. Seid and Judy L. Ramer

310 Neb. 626 (2021) · No. S-21-205 · Decided December 17, 2021

SUMMARY

The Nebraska Supreme Court held that the district court's 2021 order provided further instructions to a receiver appointed in 2019 rather than appointing a new receiver. Because the appellants did not timely appeal the 2019 appointment and did not seek discharge of the receiver, the court found no jurisdiction to review the appointment and no abuse of discretion in the 2021 instructions. The order was affirmed and the cause was remanded for further proceedings.

CASE DETAILS

COURT	Nebraska Supreme Court
WRITING FOR THE COURT	Cassel, J.; Heavican, C.J.; Miller-Lerman, J.; Stacy, J.; Funke, J.; Papik, J.; Freudenberg, J.
JURISDICTION	Nebraska
DECIDED	December 17, 2021
DOCKET	S-21-205
DISPOSITION	remanded
PROCEDURAL POSTURE	Rita J. Seid and Judy L. Ramer appealed a district court order instructing an existing receiver to continue managing agricultural land for the 2021 farming year.
STANDARD OF REVIEW	The appointment of a receiver and orders directing a receiver are reviewed for abuse of discretion. A jurisdictional question not involving a factual dispute is determined as a matter of law.
PRECEDENTIAL VALUE	Published, precedential Nebraska Supreme Court opinion.
PARTIES	Rita J. Seid, Judy L. Ramer v. Beverly J. Seid

TOPICS

[appellate jurisdiction](#) [appellate procedure](#) [remedies](#) [civil procedure](#) [real estate](#)

PRACTICE AREAS

[Civil procedure](#) [Appellate procedure](#) [Equitable remedies](#) [Real estate](#)

QUESTIONS PRESENTED

1. Whether the February 2021 order appointed a new receiver or merely provided further instructions to the receiver appointed in 2019.
2. Whether the appellate court had jurisdiction to review the 2019 receiver-appointment order when no appeal was filed within 30 days.
3. Whether the district court abused its discretion by instructing the existing receiver to manage the land for 2021 without a new appointment, without a separate determination of necessity, or without considering appellants' affidavits.
4. Whether the February 2021 order was invalid because it was not based on an application by a party or because appellants did not receive statutory notice.
5. Whether appellants waived any objection to notice by participating in the hearing and requesting affirmative relief.

HOLDINGS

1. An order appointing a receiver is a final, appealable order, and an appeal from that order must be filed within 30 days. Because no appeal was taken from the 2019 appointment order, the court lacked jurisdiction to address its merits.
2. The February 2021 order did not appoint a receiver for 2021; it provided further instructions to the receiver appointed in 2019.
3. Appellants could not premise error on the district court's failure to discharge the receiver because they did not seek the receiver's discharge or otherwise invoke a procedure to obtain a final disposition of the main action.
4. The February 2021 instructions were not invalid merely because the receiver initially filed the motion for instructions rather than a party, because the parties sought relief at the hearing through the existing receivership and participated in the requested further action.
5. Any objection to notice of the motion for instructions was waived because appellants participated in the hearing and requested affirmative relief; in addition, the cited notice statute applied to an order appointing a receiver, not to the 2021 order providing instructions.
6. The district court did not abuse its discretion by instructing the existing receiver to solicit 2021 farm leases and investigate whether requested maintenance was necessary.

KEY QUOTATIONS

“It is now too late to attack the 2019 appointment order.” (634)

“The court’s 2021 order did not “appoint” a receiver; it simply provided further instructions to the one who was previously appointed.” (635)

“The requirements of the statute in regard to notice may be waived.” (636)

FACTUAL BACKGROUND

Beverly, Rita, and Judy each held a one-third fractional life estate in agricultural land. After the parties could not agree on management and Beverly alleged she had not received her share of 2018 income or related financial documentation, Beverly filed an action seeking an accounting, disbursement, and appointment of a receiver. The district court appointed a receiver in 2019, who managed the land for 2020; the court later instructed that receiver to solicit leases and investigate maintenance issues for 2021 without first entering an order discharging the receiver.

PROCEDURAL HISTORY

Beverly J. Seid filed a 2019 complaint seeking an accounting, disbursement of income, and appointment of a receiver concerning jointly held fractional life estates in agricultural land. The district court appointed a receiver in December 2019. In February 2021, the court instructed the receiver to solicit 2021 farm leases and investigate requested maintenance work. Rita and Judy appealed that order, characterizing it as a new appointment; the Nebraska Supreme Court affirmed and remanded for further proceedings.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The cause was remanded for further proceedings. The opinion did not prescribe additional specific instructions beyond affirming the order directing the receiver.

CASES CITED

- AVG Partners I v. Genesis Health Clubs, 307 Neb. 47, 948 N.W.2d 212 (2020)
- O'Neill Production Credit Assn. v. Putnam Ranches, Inc., 198 Neb. 145, 251 N.W.2d 884 (1977)
- Priesner v. Starry, 300 Neb. 81, 912 N.W.2d 249 (2018)
- Bodge v. Skinner Packing Co., 115 Neb. 41, 211 N.W. 203 (1926)
- Dickie v. Flamme Bros., 251 Neb. 910, 560 N.W.2d 762 (1997)
- Floral Lawns Memorial Gardens Assn. v. Becker, 284 Neb. 532, 822 N.W.2d 692 (2012)
- State, ex rel. Sorensen, v. Hoskins State Bank, 132 Neb. 878, 273 N.W. 834 (1937)
- State, ex rel. Sorensen, v. Nebraska State Bank, 124 Neb. 449, 247 N.W. 31 (1933)
- Smith v. White, 62 Neb. 56, 86 N.W. 930 (1901)
- Goodman v. City of Omaha, 274 Neb. 539, 742 N.W.2d 26 (2007)
- McEwen v. Nebraska State College Sys., 303 Neb. 552, 931 N.W.2d 120 (2019)
- State v. Reed, 226 Neb. 575, 412 N.W.2d 848 (1987)
- Eletech, Inc. v. Conveyance Consulting Group, 308 Neb. 733, 956 N.W.2d 692 (2021)
- Huffman v. Peterson, 272 Neb. 62, 718 N.W.2d 522 (2006)
- VKGS v. Planet Bingo, 309 Neb. 950, 962 N.W.2d 909 (2021)
- Modisett v. Campbell, 144 Neb. 222, 13 N.W.2d 126 (1944)

- Farmers & Merchants Bank v. German Nat. Bank, 59 Neb. 229, 80 N.W. 820 (1899)
- Putnam v. Scherbring, 297 Neb. 868, 902 N.W.2d 140 (2017)
- Vila v. Grand Island Electric Light, Ice & Cold Storage Co., 68 Neb. 222, 97 N.W. 613 (1903)

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