

CALIFORNIA COURT OF APPEAL

Rogers v. Hirschi, 190 Cal. Rptr. 575

Rogers v. Hirschi, 190 Cal. Rptr. 575, 141 Cal. App. 3d 847 (Cal. App. 1983)

SUMMARY

****Rogers v. Hirschi (1983) 141 Cal.App.3d 847**** ****Topics:**** Finality of judgments; amendment of final judgment; void vs. voidable judgments; excess of jurisdiction; estoppel; creditor claims against estates (Prob. Code § 707). ****Holdings:**** A court cannot summarily amend a final judgment absent clerical error or a void judgment. The failure to file a creditor's claim against an estate does not deprive the court of subject matter jurisdiction but constitutes an excess of jurisdiction. A defendant who fails to raise the defect at trial, and instead consents to and permits the judgment to become final, is estopped from later attacking it as being in excess of jurisdiction. ****Outcome:**** Orders amending the judgment and satisfying it as amended were reversed.

CASE DETAILS

COURT	California Court of Appeal
WRITING FOR THE COURT	Kaufman, Acting P.J.; Rickles, J.
JURISDICTION	California
DISPOSITION	reversed
PROCEDURAL POSTURE	Appeal from an order amending a judgment.
PRECEDENTIAL VALUE	published
PARTIES	Hirschi v. Rogers

TOPICS

- civil procedure
- subject matter jurisdiction
- waiver
- probate
- final judgment rule

PRACTICE AREAS

- probate
- civil procedure

QUESTIONS PRESENTED

- Whether the trial court had authority to amend a final judgment that was neither a clerical error nor void.
- Whether the judgment was void for lack of jurisdiction due to the plaintiff's failure to file a creditor's claim in the probate estate.

3. Whether the defendant was estopped from asserting any excess of jurisdiction.

HOLDINGS

1. The trial court lacked authority to amend the final judgment because there was no clerical error and the judgment was not void. A court cannot summarily amend a final judgment even if it is wrong in law.
2. The judgment was not void for lack of jurisdiction. The court had subject matter jurisdiction and personal jurisdiction. The failure to file a creditor's claim was at most an excess of jurisdiction, not a lack of jurisdiction.
3. The defendant was estopped from asserting any excess of jurisdiction because he failed to raise the issue in a timely manner, allowed the case to proceed to trial, and consented to the judgment.

KEY QUOTATIONS

“Once a judgment is entered, there can be no summary amendment by the court itself no matter how wrong in law the decision may be.” (at 851)

“When, as here, the court has jurisdiction of the subject, a party who by his conduct consents to or permits action which may be in excess of the court's power may be estopped to complain of the ensuing action in excess of jurisdiction.” (at 852)

“To hold otherwise would permit the parties to trifle with the courts. The law should not and in our opinion does not countenance such action.” (at 853)

FACTUAL BACKGROUND

Plaintiff Rogers obtained a \$175,000 judgment against defendant Hirschi after a jury trial. Defendant did not raise the issue of failure to file a creditor's claim in the probate estate during the proceedings. After the judgment became final, defendant moved to amend the judgment, arguing it was void because no creditor's claim had been filed. The trial court granted the motion and amended the judgment. Defendant appealed from the order amending the judgment.

PROCEDURAL HISTORY

The trial court entered a judgment on a special verdict. Subsequently, the trial court entered an order amending the judgment. The defendant appealed from the order amending the judgment.

DISPOSITION

reversed

CASES CITED

- Barry v. Superior Court, 91 Cal. 486, 488, 27 P. 763 (1891)
- Stevens v. Superior Court, 7 Cal.2d 110, 112, 59 P.2d 988 (1936)
- Harrington v. Superior Court, 194 Cal. 185, 188, 228 P. 15 (1924)

- Satterfield v. Garmire, Satterfield v. Garmire, 65 Cal.2d 638, 56 Cal.Rptr. 102 (1967)
- Radar v. Rogers, 49 Cal.2d 243, 317 P.2d 17 (1957)
- Katz v. A.J. Ruhlman & Co., 69 Cal.App.2d 541, 159 P.2d 426 (1945)
- Estate of Hincheon, 159 Cal. 755, 760, 116 P. 47 (1911)
- Pearson v. Norton, 230 Cal.App.2d 1, 16, 40 Cal.Rptr. 634 (1964)
- In re Griffin, 67 Cal.2d 343, 347, 62 Cal.Rptr. 1, 431 P.2d 625 (1967)
- City of Los Angeles v. Cole, 28 Cal.2d 509, 515, 170 P.2d 928 (1946)
- Jorgensen v. Jorgensen, 32 Cal.2d 13, 18, 193 P.2d 728 (1948)
- Kachig v. Boothe, 22 Cal.App.3d 626, 632, 99 Cal.Rptr. 393 (1971)
- County of Los Angeles v. Faus, 48 Cal.2d 672, 680, 312 P.2d 680 (1957)

CITED IN

- Rogers v. Hirschi, 190 Cal. Rptr. 575, Rogers v. Hirschi, 141 Cal.App.3d 847 (1983)