

SUPREME JUDICIAL COURT OF MAINE

In re Estate of Colburn

909 A.2d 214 (Me. 2006) · Decided November 2, 2006

SUMMARY

The Maine Supreme Judicial Court reviewed a Probate Court order concerning the accounting and settlement of the estate of Edwin L. Colburn. It held that the Probate Court could order repayment of a payment made after the personal representative's appointment, but lacked authority under 18-A M.R.S. § 3-712 to order repayment of pre-death and pre-appointment payments. The court also held that claims for corporate compensation and shareholder loans were not properly addressed in the probate proceeding, vacated the attorney-fee award, and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Clifford, J.; Saufley, C.J.; Dana, J.; Alexander, J.; Calkins, J.; Levy, J.; Silver, J.
JURISDICTION	Maine
DECIDED	November 2, 2006
DISPOSITION	other
PROCEDURAL POSTURE	Edwin W. Colburn appealed from the Penobscot County Probate Court's order denying approval of his estate accounting, ordering repayment of certain payments to the corporation, denying claims for compensation and shareholder loans, and awarding attorney fees to Carolyn C. Eaton.
STANDARD OF REVIEW	The denial of motions for findings of fact and to amend or alter judgment was reviewed for abuse of discretion. The Probate Court's authority, interpretation of the Probate Code, and subject matter jurisdiction were reviewed de novo. The award of attorney fees was reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Judicial Court of Maine.
PARTIES	Edwin W. Colburn v. Carolyn C. Eaton

TOPICS

estate administration

breach of fiduciary duty

probate procedure

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appellate procedure

PRACTICE AREAS

probate

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QUESTIONS PRESENTED

1. Whether the Probate Court abused its discretion by denying Edwin's motion for further factual findings and by adopting most of Eaton's proposed findings.
2. Whether 18-A M.R.S. § 3-712 authorized the Probate Court to order Edwin to repay payments made before the decedent's death, before Edwin's appointment as personal representative, and after his appointment.
3. Whether the Probate Court had authority in the estate proceeding to adjudicate Edwin's and Faith's claims against the corporation for unpaid compensation and Edwin's claims for shareholder-loan principal and interest.
4. Whether the Probate Court's award of attorney fees to Eaton and denial of fees to Edwin should stand after the appellate court vacated much of the order.

HOLDINGS

1. The Probate Court did not abuse its discretion in denying Edwin's motion for further findings because, viewed in their entirety, its findings reflected the court's independent judgment and the payment dates were readily ascertainable from the record.
2. Section 3-712 did not authorize the Probate Court to order repayment of the payment made before the decedent's death because that payment was not property owned by the decedent at the time of death and was not an act taken by Edwin as personal representative.
3. Section 3-712 did not authorize repayment of the payment made before Edwin's appointment as co-personal representative because personal-representative powers and fiduciary duties commence only upon appointment.
4. The Probate Court had authority under section 3-712 to order repayment of the \$4,254.43 post-appointment payment because Edwin made it while serving as co-personal representative and subject to fiduciary duties.
5. The Probate Court lacked authority in this proceeding to adjudicate Edwin's and Faith's claims against the corporation for unpaid compensation and Edwin's claims for principal and interest on shareholder loans because those claims were asserted against the corporation, neither the corporation nor Faith was a party to the probate proceeding, and the claims were not related to settlement of the estate.
6. The attorney-fee award to Eaton and denial of fees to Edwin were vacated because much of the Probate Court's underlying order was vacated.

KEY QUOTATIONS

“a trial court's verbatim adoption of findings or orders proposed by one party in a case is disfavored, as such an approach suggests that the court has not carefully reviewed the evidence or applied its independent judgment in making its findings and conclusions.” (¶ 11)

“A personal representative's powers and fiduciary duties do not commence until appointment.” (¶ 14)

“The court does have the authority, however, to order the repayment of the post-appointment payment pursuant to 18-A M.R.S. § 3-712.” (¶ 18)

“Thus, the Superior Court is the appropriate venue for addressing these claims.” (¶ 21)

FACTUAL BACKGROUND

Edwin L. Colburn died testate owning a majority shareholder interest in Bangor Furniture Company, Inc., whose principal asset was cash proceeds from the sale of corporate real estate. Before and after the decedent's death, Edwin and his wife, Faith, received payments from the corporation that they characterized as loan repayments, reimbursement, or unpaid compensation. Edwin later served as co-personal representative and filed estate and corporate accountings that omitted or characterized several payments and claims in ways the Probate Court found inaccurate or unsupported.

PROCEDURAL HISTORY

After Edwin L. Colburn's death, Edwin W. Colburn and Carolyn C. Eaton were appointed co-personal representatives. Eaton later petitioned for complete settlement of the estate and sought Edwin's removal. Following a hearing, the Probate Court rejected Edwin's accounting, ordered repayment of \$96,407.43, denied claims asserted by Edwin and Faith Colburn against the corporation, and awarded attorney fees to Eaton. Edwin moved for amended judgment and further findings; the motion was denied, and he appealed. The Supreme Judicial Court affirmed in part and vacated and remanded in all other respects.

DISPOSITION

other

REMAND INSTRUCTIONS

The matter was remanded to the Probate Court for further proceedings consistent with the opinion, including reconsideration of the portions of the judgment vacated and the attorney-fee determination.

CASES CITED

- Ten Voters v. City of Biddeford, 2003 ME 59, ¶ 11, 822 A.2d 1196, 1201
- Jarvis v. Jarvis, 2003 ME 53, ¶¶ 14-15, 832 A.2d 775, 778-79
- In re Cyr, 2005 ME 61, ¶ 11, 873 A.2d 355, 359
- Estate of Footer, 2000 ME 69, ¶ 10, 749 A.2d 146, 149
- Estate of Hodgkins, 2002 ME 154, ¶ 14, 807 A.2d 626, 630-31
- Estate of Ricci, 2003 ME 84, ¶ 28, 827 A.2d 817, 825

