SUPREME COURT OF GEORGIA

Reynolds v. Harrison, 278 Ga. 495

604 S.E.2d 184 (2004) · No. S04A1273 · Decided October 12, 2004

SUMMARY

The Supreme Court of Georgia held that a majority of co-executors could sell stock in a privately held corporation that was not expressly bequeathed by name, even though the estate could meet its financial obligations. The court concluded that the will's provision giving individual trustees control over privately held corporate stock held by a trust did not require the executors to fund the marital trust with that stock. The court reversed the superior court's judgment and held that the drafting attorney's affidavit could not contradict the plain terms of the will.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Thompson, Justice
JURISDICTION	Georgia
DECIDED	October 12, 2004
DOCKET	S04A1273
DISPOSITION	reversed
PROCEDURAL POSTURE	Declaratory judgment action concerning the authority of co-executors to sell stock of a privately held corporation; the superior court granted the wife's motion for summary judgment and ruled that the daughters could not sell the stock unless necessary to pay estate obligations.
STANDARD OF REVIEW	De novo review of the superior court's summary judgment ruling and construction of the will.
PRECEDENTIAL VALUE	Published Georgia Supreme Court opinion; precedential
PARTIES	Bobbie Ann Harrison Reynolds, Kelley Hall Belcher Tison v. Patsy Hall Harrison

TOPICS

probate · trusts · statutory interpretation · plain meaning rule · estate planning

PRACTICE AREAS

probate trusts estate planning will construction

QUESTIONS PRESENTED

1. Whether a majority of the co-executors could sell stock in a privately held corporation that was not expressly bequeathed by name to a beneficiary when the estate was able to meet its financial obligations.
2. Whether the will's provision giving the individual trustee control over privately held corporate stock held by a trust required the executors to fund the marital trust with Harrison Poultry stock.
3. Whether the drafting attorney's affidavit could be used to establish testamentary intent when the will's relevant terms were plain and unambiguous.

HOLDINGS

1. A majority of the co-executors could sell Harrison Poultry stock because the will granted the executor broad authority to sell estate assets and did not expressly bequeath the stock or require that it be used to fund the marital trust.
2. The drafting attorney's affidavit could not be used to contradict or add meaning to the will because the will's relevant terms were plain and unambiguous.

KEY QUOTATIONS

> *“The answer is "yes."”* (278 Ga. at 495)

> *“It does not, in and of itself, require the executor to fund the marital trust with a non-publicly traded stock.”* (278 Ga. at 497)

> *“But in the absence of such specifics, the executor is vested with power to sell the assets of the estate—including Harrison Poultry.”* (278 Ga. at 497)

> *“Parol evidence cannot be used to contradict or give new meaning to that which is expressed clearly in the will.”* (278 Ga. at 497)

FACTUAL BACKGROUND

Robert H. Harrison died testate, naming his wife and two daughters as co-executors and requiring executor decisions to be made by majority vote. His will granted the executors broad statutory powers, including the power to sell estate property, and directed that the foundation be funded with publicly traded securities to the extent possible. The will authorized the individual trustee to control stock of any privately held corporation held by a trust, but did not expressly require Harrison Poultry stock to be placed in the marital trust. The daughters sought to sell Harrison Poultry to diversify the estate, while the wife sought to retain it in the exempt marital trust.

PROCEDURAL HISTORY

The daughters, who were co-executors of Robert H. Harrison's estate, sought a declaration permitting them to sell Harrison Poultry, Inc. The wife counterclaimed for an order requiring transfer of the stock to the marital trust or barring its sale without her consent. On cross-motions for summary judgment, the superior court ruled for the wife. The Supreme Court of Georgia reversed.

DISPOSITION

reversed

CASES CITED

- Kirby v. Citizens & Southern Nat. Bank, 235 Ga. 205, 219 S.E.2d 112 (1975)
- Riser v. Trust Co. of Ga., 231 Ga. 155(2), 200 S.E.2d 756 (1973)
- Calbeck v. Herrington, 169 Ga. 869, 875, 152 S.E. 53 (1930)
- Hall v. Beecher, 225 Ga. 354, 356, 168 S.E.2d 581 (1969)
