

SUPREME COURT OF HAWAI‘I

In re the Lock Revocable Living Trust, 109 Haw. 146

123 P.3d 1241 (Haw. 2005) · No. No. 25214 · Decided December 9, 2005

SUMMARY

The Supreme Court of Hawai‘i reviewed whether the Annie Quon Ann Lock Revocable Living Trust required distribution of trust assets per stirpes to the settlor’s siblings and their descendants or in equal shares to the two siblings who survived her. The court held that the trust language was facially ambiguous because the terms “per stirpes” conflicted with the direction to distribute to then-living siblings. It affirmed the trial court’s consideration of extrinsic evidence and its determination that the assets should be distributed equally to Lena L. Wong and Wah Tim Lock.

CASE DETAILS

COURT	Supreme Court of Hawai‘i
WRITING FOR THE COURT	Moon, C.J.; Levinson, J.; Nakayama, J.; Duffy, J.; Nakamura, Circuit Judge, sitting in place of Acoba, J.
JURISDICTION	Hawaii
DECIDED	December 9, 2005
DOCKET	No. 25214
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the First Circuit Court’s final judgment determining the beneficiaries of a revocable living trust and ordering distribution of the trust assets.
STANDARD OF REVIEW	Construction of a trust and conclusions of law are reviewed de novo.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Katie Lock Tamashiro, Philia Lau, Jacalyn Lock, Ranceford Lock, Gaylynn Sakuda, Natalie Urata, Verna Cancino, Carol Lock v. Lena L. Wong, as successor trustee, Lena L. Wong, as beneficiary, Wah Tim Lock

TOPICS

- trust administration
- trusts
- beneficiary litigation
- probate procedure
- estate litigation

PRACTICE AREAS

trusts and estates

trust administration

probate

QUESTIONS PRESENTED

1. Whether the trust language directing distribution per stirpes to the settlor's then-living brothers and sisters in equal shares was ambiguous.
2. Whether extrinsic evidence of the settlor's intent was admissible to construe the ambiguous trust provision.
3. Whether the trial court properly ordered equal distribution of the trust assets to the two siblings who survived the settlor.

HOLDINGS

1. Article IV was ambiguous on its face because the phrase "per stirpes" conflicted with the direction to distribute to the settlor's "then living brothers and sisters" in equal shares and with the provision addressing descendants of persons who failed to survive the settlor.
2. Once ambiguity or doubt existed concerning the meaning of the trust language, the trial court properly admitted and considered extrinsic evidence concerning the settlor's intent.
3. The trust assets were properly distributed in equal shares to Lena Wong and Wah Tim Lock, the only siblings who survived Annie Lock.

KEY QUOTATIONS

"A fundamental rule when construing trusts is that the intention of the settlor as expressed in a trust instrument shall prevail unless inconsistent with some positive rule of law." (109 Haw. 152)

"Clearly, on its face, Article IV is susceptible to two contradictory interpretations: (1) a distribution of the Trust assets among Annie Lock's brothers and sisters that are alive at the time of her death or (2) a per stirpes distribution of the Trust assets, resulting in each of Annie Lock's eight siblings receiving a one-eighth share of the Trust assets." (109 Haw. 153)

"Thus, inasmuch as there is doubt or controversy, i.e., an ambiguity, as to the meaning of the language used in the Trust, Appellants' contentions are wholly without merit." (109 Haw. 154)

"Accordingly, we hold that the trial court did not err in distributing the Trust assets in equal shares to Lena Wong and Wah Tim Lock, the only siblings that survived Annie Lock at the time of her death." (109 Haw. 156-157)

FACTUAL BACKGROUND

Annie Quon Ann Lock executed a revocable living trust in 1993 containing language directing distribution, per stirpes, to her then-living brothers and sisters in equal shares, followed by language addressing descendants of siblings who failed to survive her. Annie Lock died in 1999 without a spouse or descendants and was survived by two siblings, Lena Wong and Wah Tim Lock, while several other siblings had predeceased her and left

descendants. Extrinsic evidence from the drafting attorney and a family member indicated that Annie Lock intended the trust assets to pass only to siblings who survived her.

PROCEDURAL HISTORY

Lena Wong, in her capacity as successor trustee, petitioned the First Circuit Court for a determination of the trust beneficiaries and distribution of the trust estate. A niece and other descendants sought a per stirpes distribution and moved for summary judgment. The trial court found the trust language ambiguous, considered extrinsic evidence of the settlor's intent, and entered judgment directing equal distribution to the two siblings who survived the settlor. The Supreme Court of Hawai'i affirmed.

DISPOSITION

affirmed

CASES CITED

- Hokama v. Relinc Corp., 57 Haw. 470, 559 P.2d 279 (1977)
- First Hawaiian Bank v. Keolanui (In re Trust Estate of Dwight), 80 Hawai'i 233, 909 P.2d 561 (1995)
- Trust Created Under the Will of Damon, 76 Hawai'i 120, 869 P.2d 1339 (1994)
- In re Lopez, 64 Haw. 44, 636 P.2d 731 (1981)
- Queen's Hosp. v. Hite, 38 Haw. 494 (1950)
- Midkiff v. Castle & Cooke, Inc., 45 Haw. 409, 368 P.2d 887 (1962)
- Weller v. Sokol, 271 Md. 420, 318 A.2d 193 (1974)
- Graham v. Washington Univ., 58 Haw. 370, 569 P.2d 896 (1977)
- In re Estate of Ikuta, 64 Haw. 236, 639 P.2d 400 (1981)
- In re Trust Estate of Dowsett, 38 Haw. 407 (1949)
- Okada Trucking Co. v. Board of Water Supply, 97 Hawai'i 450, 40 P.3d 73 (2002)
- Kawamata Farms, Inc. v. United Agri Products, 86 Hawai'i 214, 948 P.2d 1055 (1997)
- Leibert v. Financial Factors, Ltd., 71 Haw. 285, 788 P.2d 833 (1990)
- Amfac, Inc. v. Waikiki Beachcomber Investment Co., 74 Haw. 85, 839 P.2d 10 (1992)
- Torres v. Torres, 100 Hawai'i 397, 60 P.3d 798 (2002)
- Bremer v. Weeks, 104 Hawai'i 43, 85 P.3d 150 (2004)
- Allstate Insurance Co. v. Ponce, 105 Hawai'i 445, 99 P.3d 96 (2004)
- In re Medeiros Testamentary Trust and Life Insurance Trust, 105 Hawai'i 284, 96 P.3d 1098 (2004)