

DISTRICT COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT

Babette Varano v. Steven Varano and Vincent Michael Varano, et al.

No. 4D2024-1571, 2025 Fla. App. LEXIS ____ (Fla. 4th DCA June 11, 2025) · No. 4D2024-1571

SUMMARY

In Varano v. Varano, the Florida Fourth District Court of Appeal affirmed summary judgment, holding that a life tenant who lacked authority to sell the property could not convey a fee simple interest and was not entitled to escrowed sale proceeds. The court emphasized that a life tenant owes a quasi-trustee duty to remaindermen and cannot unilaterally sell the property without a Lady Bird Deed or joinder of remaindermen. Additionally, the widow's role as trustee of a remainder trust created a conflict of interest, rendering the sale voidable under Florida Statutes § 736.0802.

CASE DETAILS

COURT	District Court of Appeal of Florida, Fourth District
WRITING FOR THE COURT	Levine, J.; Levine; Forst; Kuntz
JURISDICTION	Florida
DOCKET	4D2024-1571
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from final summary judgment determining entitlement to escrowed sale proceeds.
STANDARD OF REVIEW	The standard of review for an order granting summary judgment is de novo.
PRECEDENTIAL VALUE	Published
PARTIES	Babette Varano v. Steven Varano, Vincent Michael Varano

TOPICS

[real estate](#)[trusts](#)[homestead](#)[summary judgment](#)[fiduciary duty](#)

PRACTICE AREAS

[Real Property](#)[Trusts and Estates](#)

QUESTIONS PRESENTED

1. Whether a life tenant is entitled to proceeds from the sale of a fee simple interest in property when the deed does not authorize such sale.
2. Whether the widow, as trustee of a remainder trust, had authority to bind the trust to a sale that created a conflict of interest.

HOLDINGS

1. A life tenant cannot convey an interest greater than what she owns; she cannot sell a fee simple interest and is not entitled to the proceeds of such a sale. The life tenant's interest is limited to the life estate, and she cannot force a sale on the remaindermen.
2. Even assuming the widow was trustee, she lacked authority to bind the trust because the sale presented a conflict of interest; a trustee must administer the trust solely in the interests of beneficiaries, and a transaction affected by a conflict is voidable unless approved by court or consented to by beneficiary.

KEY QUOTATIONS

“A “life estate” is defined as “[a]n estate held only for the duration of a specified person’s life” Black’s Law Dictionary (12th ed. 2024).” (3)

“A life tenant cannot convey an interest greater than what she owns. Chapman v. Chapman, 526 So. 2d 131, 135 (Fla. 3d DCA 1988). “The duty owed by life tenants to remaindermen is comparable to that of a trustee or quasi-trustee, because the life tenant cannot injure the property to the detriment of the rights of the remaindermen.” Id.” (3-4)

FACTUAL BACKGROUND

The widow and her husband conveyed a life estate to themselves in their marital homestead, with remainder interests to the widow's children (one-half) and a trust for Vincent (one-half). The deed did not authorize sale. After the husband's death, the widow, holding only a life estate, contracted to sell the property. Vincent opposed, and a settlement agreement distributed 50% to widow, 22% to trust, and 28% in escrow pending determination. The widow sought the escrowed funds, claiming the present value of her life estate. The trust moved for summary judgment, arguing the widow had no right to sell the fee simple and no interest in the proceeds.

PROCEDURAL HISTORY

The widow filed a petition for declaratory relief seeking the escrowed portion of sale proceeds. The trust beneficiary/trustee moved for summary judgment, which was granted. The trial court entered final judgment ordering funds to the trust. The widow appealed.

DISPOSITION

affirmed

CASES CITED

- Volusia Cnty. v. Aberdeen at Ormond Beach, L.P., 760 So. 2d 126 (Fla. 2000)

- Celotex Corp. v. Catrett, 477 U.S. 317 (1986)
- Chapman v. Chapman, 526 So. 2d 131 (Fla. 3d DCA 1988)
- Hirschenson v. Compu-Link Corp. of MI, 389 So. 3d 574 (Fla. 3d DCA 2023)
- Smith v. Smith, 600 S.W.2d 666 (Mo. Ct. App. 1980)

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