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**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2357-20**

**IN THE MATTER OF THE
ESTATE OF JOSEPH P.
ARDIRE, deceased.**

STEPHEN J. ARDIRE,

Plaintiff-Respondent,

v.

SANDRA ARDIRE,

Defendant-Appellant.

Argued March 22, 2022 – Decided May 3, 2021

Before Judges Currier, DeAlmeida, and Smith.

On appeal from the Superior Court of New Jersey,
Chancery Division, Gloucester County, Docket No. 20-
1111.

Louis Giansante argued the cause for appellant
(Giansante & Associates, LLC, attorneys; Louis
Giansante, of counsel and on the briefs).

Thomas M. North argued the cause for respondent.

PER CURIAM

Stephen¹ and Sandra Ardire are siblings. Their father—Joseph—died in December 2019. Their mother—Teresa—died in May 2020, five months after her husband. This matter arises out of the trial court's interpretation of a specific clause in Joseph's will.

Joseph executed a will in 1995. At that time and until his death, Joseph owned ninety shares of the stock in J.P. Ardire, Inc.; Teresa owned the remaining ten shares. Stephen and Sandra were named as co-executors in the event Teresa could not act as the executor.² Article II of the will, entitled "Personal Possessions" states:

I give all of my personal effects and jewelry, household effects and furniture, automobiles and accessories, and articles of a similar nature, together with policies of insurance thereon against loss of any kind, in accordance with a written statement or list signed by me and left with my [e]xecutor, [w]ill, or among my personal papers and effects. If no such statement or list is in existence at the time of my death,^[3] or to the extent that such statement or list does not dispose of all my

¹ Because the parties share the same surname, we refer to them by their first names.

² When the will was admitted to probate in January 2020, Teresa did not have the capacity to administer the will as executor.

³ Joseph did not leave a separate signed written statement or list.

personal possessions, I give such property to my wife, TERESA L. ARDIRE, if she shall survive me, and otherwise to my surviving children in equal shares.

Article III, "Residuary Estate," provides:

I give the remainder of my estate (specifically excluding any property over which I have a power of appointment) to the [t]rustee under [t]rust executed by me and dated the same date as this [w]ill, to be held for the uses and purposes therein stated.

In July 2020, Stephen presented an order to show cause and verified complaint seeking an order: (1) to declare, adjudge, direct, and set aside the probate of Joseph's will and any testamentary trust; (2) to revoke any appointments of Sandra or any other person as personal representative or trustee of Joseph's estate or trust; (3) to direct Sandra to provide an accounting relating to Joseph's assets, debts, distributions, will, or trusts; (4) to restrain Sandra from dispersing or spending estate or trust assets without court approval; and (5) to provide any other equitable relief the court finds equitable and just. Stephen also demanded an accounting from Sandra regarding her actions taken on behalf of Joseph's estate or trust while he was alive and after his death. The record reflects the court rendered an accounting of the estate. It is unclear what other relief was granted.

In February 2021, Sandra, as executrix of Teresa's estate, moved for an order authorizing the transfer of ninety shares of J.P. Ardire Inc. stock⁴ to Teresa's estate. The dispute between the siblings centered on whether the ninety shares passed under Article II "Personal Possessions," or whether the shares fell into Article III, the "Residuary Estate" clause. If the shares are classified as personal possessions, they would be distributed to Teresa's estate.⁵ However, if the shares are not personal possessions, then the shares would be distributed according to the terms of Joseph's trust.

In an oral decision issued February 24, 2021, the trial court found that "a reading of the will [does not] indicate that [Joseph] intended stocks to be passed under Article [II] and that . . . the definition of stock and tangible personal property do[es] not support the application of Article [II] to the stock certificate."

In reaching its decision, the court noted the "stocks were not named by [Joseph] . . . under [the] personal possessions [clause]." In addition, the court relied on N.J.S.A. 3B:3-11, which allows a testator to dispose of "tangible personal property" by a handwritten list. The court found the stock shares were

⁴ The shares are the only potential probate assets of Joseph's estate.

⁵ Sandra is the sole beneficiary of Teresa's estate.

not tangible personal property, and Joseph did not intend them to be included in the personal possession clause as they were not specifically listed like other denoted items. Therefore, the trial court concluded that "stock[s] cannot . . . be tangible personal property as defined as personal possession[s] under Article [II]."

In its March 24, 2021 order, the court found the stock shares did not pass under Article II "because they are securities, and not personal possessions, personal effects, or tangible personal property under N.J.S.A. 3B:3-11." Accordingly, the court ordered that the shares be distributed under Article III—the residuary estate clause.

Our review of rulings of law and issues regarding the applicability, validity or interpretation of laws, statutes, or court rules is de novo. See Meehan v. Antonellis, 226 N.J. 216, 230 (2016) (quoting Mortg. Grader, Inc. v. Ward & Olivio, L.L.P., 438 N.J. Super. 202, 210 (App. Div. 2014)) (appellate courts interpret statutes and court rules de novo). A "trial court's interpretation of the law and the legal consequences that flow from established facts are not entitled to any special deference." Rowe v. Bell & Gossett Co., 239 N.J. 531, 552 (2019) (quoting Manalapan Realty, L.P. v. Twp. Comm. of Manalapan, 140 N.J. 366, 378 (1995)).

Sandra challenges the court's interpretation of the will. She notes the court characterized the issue before it as whether the stocks were tangible personal property. However, she contends the stocks were personal possessions to be included under Article II. And that "personal possessions" is a broader category than "tangible personal property." Therefore, Sandra asserts the trial court erred in limiting the plain language of Article II.

In considering whether stocks are "personal possessions" under Article II, the trial court, and this court, in our de novo review, must determine Joseph's intent. "In interpreting a will, [the court's] aim is to ascertain the intent of the testator." In re Estate of Payne, 186 N.J. 324, 335 (2006). Our Supreme Court has adopted the "doctrine of probable intent," which recognizes courts should give "primary emphasis" to the testator's "dominant plan and purpose" as it appears "when read and considered in . . . light of the [will's] surrounding facts and circumstances." Ibid. (citing Fidelity Union Tr. Co. v. Robert, 36 N.J. 561, 564-65 (1962)).

Here, the surrounding facts and circumstances are limited to the will's language. Under Article II, Joseph gave "all of [his] personal effects and jewelry, household effects and furniture, automobiles and accessories, and articles of a similar nature, together with policies of insurance thereon against

[any] loss . . . in accordance with a written statement or list signed by [him]." And, in the event the written statement or list did not exist or dispose of all his personal possessions, Joseph devised his "personal possessions" to Teresa if she survived him.

Joseph did not address the ninety stock shares in his will nor did he leave a separate, signed written statement devising his personal possessions. Therefore, the shares can only be distributed to Teresa's estate if they are "personal possessions" under Article II.

Under the plain language of the will, it is evident that Joseph did not intend to include the stock shares as personal possessions. He included specific items as "personal possessions," including "personal effects and jewelry, household effects and furniture, automobiles and accessories, and articles of similar nature, together with policies of insurance." When construing a will, courts apply the "ejusdem generis rule," which dictates "where general words are followed by words of a particular and specific meaning, such general words are not to be construed in their widest extent, but are to be held as applying only to . . . things of the same general kind or class as those specifically mentioned." Abeles v. Adams Eng'g Co., 64 N.J. Super. 167, 176 (App. Div. 1960) (citing Black's Law Dictionary 608 (4th ed. 1951)). Therefore, "personal possessions" should not

be construed widely, but instead should be limited to items of the same class as those listed. Stock shares are not within the same class as "personal effects and jewelry, household effects and furniture, automobiles and accessories" or "policies of insurance" Therefore, the court did not err in its interpretation of Article II.

Sandra further asserts that Joseph's reference to "personal effects" in Article II was not intended to limit personal possessions to "tangible personal property" referred to in N.J.S.A. 3B:3-11. That statute provides:

A will may refer to a written statement or list to dispose of items of tangible personal property not otherwise specifically disposed of by the will, other than money The writing may be referred to as one to be in existence at the time of the testator's death; it may be prepared before or after the execution of the will

Although the trial court may have misspoken when it found that, under N.J.S.A. 3B:3-11, stocks can only be devised under Article II if the shares are "tangible personal property," Joseph did not leave a list that disposed of tangible personal property. Therefore, for the reason stated above, because the term "personal possessions" is limited by the terms "personal effects," "jewelry," "household effects and furniture," "automobiles and accessories," and "articles of a similar nature, together with policies of insurance," the shares do not fall under Article II.

Sandra also contends that the court erred in not reading "personal possessions" as synonymous with "personal property."⁶ We disagree. To read the two terms as synonymous would effectively re-write Joseph's will—and override his intent. See In re Estate of Payne, 186 N.J. at 335 (holding that the court's aim is to ascertain the testator's intent). If Joseph wished to devise all his personal property, including the ninety stock shares, to his wife, Teresa, in the absence of a separate written list, then he would not have delineated specific items in article II as "personal possessions." Similarly, if Joseph intended to devise all his personal property, including the stock shares, to Teresa, he would not have reserved the power to prepare a separate written statement or list that disposed of tangible personal property under N.J.S.A. 3B:3-11.

There is no evidence to conclude Joseph's "probable intent" was to leave his stock shares to his wife Teresa under Article II. Therefore, the ninety shares, as the "remainder of [Joseph's] estate," fall under the will's Article III residuary estate clause.

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



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⁶ Counsel agreed during oral argument before the trial court that personal property includes "anything that's not real property." Therefore, personal property would include stock shares.