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APPROVAL OF THE COMMITTEE ON OPINIONS

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
PROBATE PART
MONMOUTH COUNTY
DOCKET NO. MON-P-296-22

IN THE MATTER OF THE
ESTATE

OF

ARTHUR JAMES REINITZ, JR.,

Deceased.

OPINION

Decided May 16, 2024.

Joel A. Davies, Esq. (Taff, Davies & Kalwinsky, LLC, attorneys for plaintiff Deborah Scully-Reinitz).

Joel N. Kreizman, Esq. (Scarinci Hollenbeck, attorneys for defendants Stacy Founds, Elaine Lago and Arthur Reinitz III).

Warren L. Peterson, Esq. (The Law Office of Warren L. Peterson, attorneys for defendant Audra Stewart).

FISHER, P.J.A.D. (t/a, retired on recall).

Plaintiff Deborah Scully-Reinitz has moved for an order that would, if granted, compel her late husband's estate to convey to her the estate's Florida condominium unit and a 2007 Lincoln MKX in exchange for her payment of their date-of-death (January 7, 2022) appraised values. The court denies this relief for two essential reasons: first, there is no pending case – the court having previously resolved all issues as to all parties under this docket number – and second, even if the court had a lawsuit within which it might act, there is no sound legal or equitable basis that would justify entry of an order compelling the relief sought.

To put the matter in its proper context, the reader should know that Deborah was not mentioned in her late husband's Will, which, although her husband's last, was executed years before they met and married. Because the Will did not provide for her, Deborah filed a complaint under this docket number, alleging she was, as an omitted spouse, "entitled to receive, as an intestate share, no less than the value of the share of the estate" she "would have received if the testator had died intestate." N.J.S.A. 3B:5-15(a).

After a one-day trial on March 18, 2024, and for reasons set forth in a written opinion filed on April 1, 2024, the court agreed that Deborah was omitted from the Will but concluded she was not entitled to relief because

N.J.S.A. 3B:5-15(a)(3) precludes an omitted spouse's recovery against the estate if the testator provided for the spouse "outside the will" and with "the intent" that any such transfer or transfers "be in lieu of a testamentary provision" as may be "reasonably inferred from the amount of the transfer or other evidence."

As more fully explained in the earlier written opinion, which need not be repeated here, the court drew the reasonable inference permitted by N.J.S.A. 3B:5-15(a)(3) that the decedent had intended to provide for Deborah solely outside the Will in lieu of a testamentary provision. To be specific, the court found that the estate's assets had a value on the date of death of slightly more than $1,000,000, and the liquid assets that passed outside the Will to Deborah amounted to about $257,000. Decedent's four children – the Will's beneficiaries – thus stood to gain approximately $250,000 each, essentially the same benefit Deborah obtained outside the Will.

In the wake of that determination, Deborah moved for an order that would compel the estate's personal representative to convey to her two assets passing under the Will: decedent's Florida condominium and his 2007 Lincoln MKX. And she seeks to compensate the estate for those assets by paying their date-of-death values (now more than two years old) rather than what their fair market value may now be. Deborah claims that this causes no harm to the Will's beneficiaries. She further argues that because the estate assets have increased in

value since the date of death, to do less than what she suggests would "destroy[]" the "equality fashioned by the [c]ourt" in the prior decision. Prb at 2.

As noted above, there is an initial stumbling block to the consideration of the motion. There is no longer a pending case to which this motion relates. The complaint under this docket number sought a determination that Deborah was an omitted spouse. The court entered a judgment on that claim and later entered an order denying Deborah's claim for counsel fees under Rule 4:42-9(a)(3). With those two determinations, the court decided, on their merit, all issues as to all parties. To seek relief from the court beyond the scope of that prior action, it was incumbent on Deborah to file a new action. But, looking beyond this jurisdictional defect at the risk of perhaps rendering an advisory opinion, the court will proceed to the merits of the application.[1]

As for the motion's substance, Deborah hasn't referred the court to any legal or equitable authorities that would permit, in these circumstances, the court's intervention into how the estate's personal representative ought to liquidate or distribute estate assets, let alone at the request of a party who is not

[1] The court doesn't discount the possibility that it would have jurisdiction to act if it could be said that what Deborah seeks is an alteration or amendment of the judgment under Rule 4:49-2, although Deborah has not expressly invoked that rule in moving for relief.

a Will beneficiary.[2] Deborah has cited nothing that would suggest this court's power to compel the relief she seeks.[3] Instead, she invokes only authorities that speak of how courts of equity possess the discretion to condition relief and to fashion remedies "to vindicate a wrong consistent with principles of fairness, justice, and the law." Graziano v. Grant, 326 N.J. Super. 328, 342 (App. Div. 1999). That is all true of course, but those generalities do not provide this court with a roving commission to right all wrongs or to better hone decedent's "estate plan," particularly when the evidence clearly demonstrated that he chose not to do that while living.

The result of the prior proceedings recognized that the decedent had provided for his wife and his children in a particular – albeit unorthodox – way.

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[2] To be sure, the Legislature has declared that courts have "full authority to hear and determine all controversies respecting wills, trusts and estates, and full authority over the accounts of fiduciaries, and also authority over all other matters and things as are submitted to its determination under this title." N.J.S.A. 3B:2-2. That authority, however, is not triggered unless the controversy is "submitted" for the court's "determination," and the Court Rules, which govern how and when courts may adjudicate such matters, require the submission for disposition of the claim only on the filing of a complaint. See R. 4:2-2 (declaring that "[a] civil action is commenced by filing a complaint with the court").

[3] Courts have jurisdiction to provide a fiduciary with instructions about how to make distributions from an estate, see R. 4:95-2, but it seems such an action may be commenced only "by executors, administrators, guardians or trustees," and no one fitting that description has instituted such an action. Again, as noted earlier, the court has no jurisdiction to provide instructions or directions merely on request unless a complaint seeking that relief has been filed.

That way called for providing for Deborah outside the Will and for his children through his Will. And that plan resulted in an approximate equal division of all that would pass on his death, a circumstance that compelled the court's conclusion that decedent's intent was to provide for Deborah outside the Will and not through the Will. What Deborah ostensibly seeks by way of this motion is a division of the property passing under the Will as she would choose or prefer or, as she puts it, to better equalize the outcome caused by the court's judgment in her failed omitted-spouse action. See Prb at 2 (arguing that, as things stand, decedent's children, because of the passage of time and the increased value of the condominium, "will now receive more than the [p]laintiff[,] and the equality fashioned by the [c]ourt will be destroyed"). There is simply nothing about the omitted-spouse statute that requires a conclusion that – with a finding that the omitted spouse is not entitled to relief – the court should somehow perfectly equalize the shares that the competing parties walk away with or provide the omitted spouse some preference to assets passing under the Will at a preferred or discounted price.

That is, the statute invoked by Deborah in this action allowed for one of two results: she was either "entitled to receive, as an intestate share, no less than the value of the share of the estate" that she "would have received if the testator had died intestate," N.J.S.A. 3B:5-15(a), or she was entitled to nothing

under the Will at all. After hearing all the testimony and other evidence offered by the parties at trial, the court reached the latter conclusion. That conclusion barred any right or entitlement Deborah may have had to the estate or its assets and precluded her now claimed status as a preferred buyer of any estate assets. She has no greater interest in the estate's property than would a stranger.

In short, the nature of an omitted-spouse action does not directly or indirectly permit or authorize a court to cause some disposition of estate assets other than as directed by a Will in order to render what the court might think is a more perfect or more just result. This omitted-spouse action was a zero-sum contest; the chips had to fall according to the statutory option chosen by the court at the trial's conclusion.

The bottom line is this. Now that the omitted-spouse claim has been concluded, the estate's personal representative is obligated only to marshal the assets, pay the estate's debts, and distribute the property in accordance with the Will's directions. See In re Armour's Will, 33 N.J. 517, 524 (1960); In re Estate of Sapery, 28 N.J. 599, 609 (1959); In re Estate of Bayles, 108 N.J. Super. 446, 453 (App. Div. 1970). Those obligations do not require that the estate sell any of its property to an omitted spouse, let alone at a price based on two-year-old date-of-death valuations. Just as courts will not step in to rewrite unambiguous contracts to provide a party with a better deal than was fairly negotiated, see

Kampf v. Franklin Life Ins. Co., 33 N.J. 36, 43 (1960); Grow Co. v. Chokshi, 403 N.J. Super. 443, 464 (App. Div. 2008), so too a court should not revise the disposition of an estate at the behest of someone, who, despite having been wedded to the decedent at the time of death, is a stranger to the estate created by the Will.

The motion to compel a sale of certain estate assets to plaintiff is denied.