

Commonwealth of Kentucky

Court of Appeals

NO. 2010-CA-000548-MR

RONNIE KEEYS

APPELLANT

v. APPEAL FROM ROWAN CIRCUIT COURT
HONORABLE WILLIAM EVANS LANE, JUDGE
ACTION NO. 09-CI-90019

GREG KEEYS; MELISSA LYNN KEEYS;
JANICE ANDERSON; JACK ANDERSON;
MARY BETH MANNER; AND ROBBIE KEEYS

APPELLEES

OPINION
AFFIRMING

** ** * * * * *

BEFORE: LAMBERT, NICKELL, AND WINE, JUDGES.

WINE, JUDGE: Ronnie Keays (“Ronnie”) appeals from a directed verdict on his claim to a parcel of real property which was part of the estate of his father, Jack Keays (“Jack”), now deceased. On appeal, Ronnie maintains the trial court erred in failing to find that he had a partnership interest in the property. Having concluded that no theory of law would support a judgment granting title to Ronnie, we affirm.

History

Jack Keeys died intestate on February 3, 2007. Jack's wife predeceased him, but he was survived by his sons, Greg and Ronnie, his daughter Janice, and the children of his deceased son Mike (collectively, "the appellees").

At the time of his death, Jack owned two pieces of real property in Rowan County, Kentucky. The first was an unimproved tract of land and the second was an improved parcel of land containing a house ("the Pretty Valley property"). After Jack's death, the appellees filed a petition praying that both of these properties be sold by the Master Commissioner. Ronnie filed an answer claiming ownership to the Pretty Valley property.

At a bench trial on October 14, 2009, it was agreed that Ronnie would make the presentation of his case first. Ronnie made claims to the property under a partnership theory as well as in equity based upon the assertion that he cared for his elderly parents, Goldie and Jack, in their later years while the other children did not. Ronnie testified that he took out loans to care for his parents and to pay their bills. However, the court found the issue of whether Ronnie supported his parents was irrelevant, noting that same would have been proper in the probate case (although it was represented by counsel that Ronnie's claim was rejected by the probate court).

Ronnie further testified that he had a power of attorney granted to him by his father to transact business on his behalf, which was in effect from 1974 until Jack died in 2007. Ronnie testified that Greg and his wife Melissa conveyed the

Pretty Valley property to Jack and Goldie on March 8, 2000. However, Ronnie claimed that he was a partner in a construction business with his father, Jack Keeys & Sons, and that the Pretty Valley property was purchased by the partnership and paid for with partnership funds. Ronnie further testified that he used his own money to build a house on the Pretty Valley property.

During the bench trial, Ronnie's brother, Greg (appellee herein), testified that Ronnie was indeed in a business partnership with Jack and that the pair built a house upon the property in which they both lived with Goldie. However, Greg also testified that the property was conveyed to Jack and Goldie individually, rather than to a partnership. Greg's position was supported by a deed dated March 8, 2000, purporting to convey the property only to Jack and Goldie. The deed was entered into the record, reciting the purchase price to be \$23,000, and further acknowledged receipt thereof by the grantors. Despite the fact that the deed acknowledged receipt of the purchase price, Greg testified that the full purchase price was not paid at that time. A check was entered into the record showing that Ronnie paid Greg \$11,500 for the Pretty Valley property on March 10, 2000, made payable from the business account of Jack Keeys & Sons. Although Greg claims he did not receive any other money toward the \$23,000 purchase price, Ronnie claims that the rest of the purchase price was paid in cash on the same day the check was written.

Thereafter, a deed of correction signed and agreed to by Jack and Goldie was filed on October 19, 2000, with the Rowan County Clerk. The deed of correction stated as follows:

WHEREAS, prior to March 8, 2000, the Grantors and Grantees had agreed that the Grantors would convey to the Grantees and the Grantees would purchase from the Grantors, either:

1. The real estate described in said deed of March 8, 2000, for a consideration of \$23,000; or
2. The real estate described in this Deed of Correction for a total consideration of \$12,500.

AND the parties hereto agreed that the Grantees would purchase and the Grantors would sell the real estate described in this Deed of Correction for a total consideration of \$12,500.00, but failed to so inform Paul W. Blair, attorney, resulting in Blair's preparing said deed of March 8, 2000, based on the information previously furnished to him,

NOW, in order to correct said deed of March 18 (sic), 2000:

1. The Grantors do hereby convey to the Grantees the real estate on Donna Street (now Westview Way) described as "Tract I" on "Exhibit A" attached hereto.
2. The Grantees, Jack and Goldie Keeys, do hereby re-convey to the Grantors the real estate described as "Tract II" on "Exhibit A" attached hereto, subject to all easements, restrictions and reservations of record.

According to the deed of correction, Jack and Goldie kept a smaller portion of the property (Tract I) and re-conveyed back to Greg and Melissa a large portion of the property (Tract II). The house where Ronnie, Jack, and Goldie lived was located on Tract I. At trial, Ronnie argued that the partnership purchased the entire property (around 1.4 acres), and that he only learned of the above deed of

correction conveying 1.029 acres of the property back to Greg and Melissa after people began building on the remaining acreage.

Robbie Workman, a witness for Ronnie, testified that he had known Ronnie and Jack for twenty years and that Ronnie and Jack were indeed partners. Workman also testified that Jack “stayed home” after his health began to fail, however. After Workman’s testimony, Ronnie rested his case and the appellees moved for a directed verdict

The trial court entered a directed verdict in favor of the appellees, finding that the property was conveyed to Jack and Goldie individually, that a portion of the property was conveyed back to Greg and Melissa, and that Ronnie had only an undivided interest in the property along with the other heirs of Jack and Goldie Keeyes. Ronnie now appeals to this Court.

Analysis

On appeal, Ronnie claims that (1) the trial court erred in finding that no partnership existed at the time of Jack's death, and (2) the trial court erred in failing to convey the Pretty Valley property to him as a matter of equity. He claims that a partnership existed until the time of Jack's death, despite the fact that Jack was no longer active in the day-to-day dealings of the partnership. Ronnie further argues that it was inequitable for the trial court to divide the Pretty Valley property equally among the heirs because he solely funded the construction of the home in question on the Pretty Valley property.

Ronnie first alleges that a partnership existed between Jack and himself. "A partnership is an association of two (2) or more persons to carry on as co-owners a business for profit" KRS 362.175. A partnership may be evidenced from "[t]he receipt by a person of a share of the profits of a business" KRS 362.180(4). In the present case, Ronnie introduced checks drawn on a business account named "Jack Keeys & Sons" upon which both he and Jack apparently had the authority to draw checks. A check dated March 10, 2000, in the amount of \$11,500 was written on the account of Jack Keeys & Sons for the purchase of the Pretty Valley property.

However, testimony at trial indicated that this business was a Limited Liability Company ("LLC") or corporation, rather than a partnership. There was further testimony that this LLC or corporation was dissolved in 2001. Ronnie argues that, under KRS 362.185(2), any "property acquired with partnership funds

is partnership property.” However, in the present case, the property was not purchased with partnership funds, but rather with the funds of an LLC or corporation. Therefore, KRS 362.185 is inapplicable.

Thus, this is a situation where property was purchased by an LLC or corporation, yet titled in the personal name of only one of its members, Jack Keeys. This is also a situation where the LLC or corporation was dissolved shortly after the property was purchased. A partnership may, or may not, have continued after the dissolution of the LLC or corporation. Finally, this is a situation where one of the two members of the partnership is now deceased. All of this is further complicated by the fact that the property in question was not commercial property, but was in fact residential property in which Ronnie, Jack, and Goldie all lived as their primary residence.

This matter comes down to a question of the intent of the parties. The intention of the parties must be determined by looking to the deed. The construction of a deed is a matter of law. *Florman v. MEBCO Ltd. Partnership*, 207 S.W.3d 593, 600 (Ky. App. 2006). Absent an ambiguity in the deed, the intent of the grantor is required to be gathered from the four corners of the instrument. *Phelps v. Sledd*, 479 S.W.2d 894, 896 (Ky. 1972). As previously stated, the property was conveyed to Jack and Goldie, individually, and not to the partnership. Moreover, the deed in question was a deed with rights of survivorship which vested the survivor with the property in fee simple. Indeed, the deed stated that the property was conveyed “unto the said Grantees, Jack Keeys and wife, Goldie

Keeyes, for and during their joint lives and with remainder in fee simple to the survivor of them.” There is no ambiguity in the deed concerning the identity of the grantees. Furthermore, even though we do not consider the intent of the grantor where there is no ambiguity, suffice it to say that the above language of survivorship runs directly contrary to an intention that the property be partnership property with vesting of survivorship in the remaining partner subsequent to the death of the other.

While there may have been genuine issues as to how the property should have been divided equitably in probate court because of Ronnie’s expenditures in caring for his elderly parents and/or his financial contributions toward the Pretty Valley house and property, the present action is unrelated to the probate of the estate of the decedent Jack Keeyes. Instead, this is a civil suit regarding the title to real property and Ronnie has proffered no viable legal theory, equitable or otherwise, by which this Court could grant him title to the property.

Accordingly, we affirm the Rowan Circuit Court.

ALL CONCUR.

BRIEFS FOR APPELLANT:

Terry R. Anderson
Sharpsburg, Kentucky

BRIEF FOR APPELLEE:

Paula G. Richardson
Owingsville, Kentucky