

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

In the Matter of the Estate of
Fannie Rogers, Deceased

Danielle Clinton,
Appellant-Petitioner,

v.

Denisha Robinson, Personal
Representative of the Estate of
Fannie Rogers,

Appellee-Respondent

December 28, 2023

Court of Appeals Case No.
23A-ES-1209

Appeal from the Lake Superior
Court

The Honorable Stephen E.
Scheele, Judge

The Honorable Nancy Gettinger,
Senior Judge

Trial Court Cause No.
45D05-2210-ES-216

Memorandum Decision by Judge Crone
Judges Pyle and Tavitas concur.

Crone, Judge.

Case Summary

- [1] Denisha Robinson, personal representative of the estate of Fannie Rogers (the Estate), filed a verified petition to evict Danielle Clinton from Rogers’s home. After a hearing, the trial court granted Robinson’s petition. Clinton argues that the trial court erred. We disagree and therefore affirm.

Facts and Procedural History

- [2] Rogers died testate in January 2022. In October 2022, Clinton filed a claim against the Estate requesting enforcement of a purported agreement between her and Rogers for the purchase of Rogers’s home. In November 2022, the trial court issued letters of administration to Clinton. In December 2022, Robinson filed a petition for Clinton’s removal as administrator and for Robinson’s appointment as personal representative of the Estate, which the trial court granted. Robinson later denied Clinton’s claim.
- [3] In February 2023, Robinson filed a verified petition to evict, in which she averred that Rogers “died owning a fee simple interest in the real estate[,]” that the “real estate [was] currently being occupied by Clinton, who, by reason thereof, also has custody and control of decedent’s personal property located at said real estate[,]” that Clinton was “not related to the decedent, [was] not an heir to the decedent’s estate, and [was] not a beneficiary named under the decedent’s Last Will and Testament[,]” that Clinton never provided the “alleged” purchase agreement to Robinson “despite multiple requests for the same[,]” that Clinton had “refused to release her control over said real estate

and personal property” and had “not paid any rental or other consideration” therefor, and that Robinson had been “unable to properly appraise and inventory” and “preserve and protect ... estate assets for the benefit of the rightful beneficiaries of the estate.” Appellant’s App. Vol. 2 at 18-19. The petition requested that Robinson “be granted possession of said real and personal property in question” and also requested a hearing on the matter. *Id.* at 19. Clinton did not file a response to the petition. The trial court set the matter for hearing in April 2023.

[4] At the hearing, both parties appeared by counsel. Clinton appeared in person, and Robinson appeared telephonically. Robinson’s counsel offered into evidence a “property card” demonstrating Rogers’s ownership of the home. Tr. Vol. 2 at 6. Clinton’s counsel objected on the basis that the card was “a governmental record, which is not certified as being a true and accurate record[.]” *Id.* Robinson’s counsel responded, “That’s fine, your Honor. There has been no other evidence submitted that Ms. Clinton is the current owner, so I suppose we can just proceed with my statement that the decedent died [as] the owner of [the home] as stated in our petition.” *Id.* Robinson’s counsel argued that Clinton had no right to be in possession of the home, and Clinton’s counsel argued that Clinton had “paid for the property” and was “there under claim of right.” *Id.* at 9.

[5] The trial court asked Robinson’s counsel if she was going to call her client to testify, and she said that she was not. The court asked Clinton’s counsel the same question, and he replied, “Your Honor, if there’s no testimony for the

moving party I have nothing to rebut.” *Id.* at 10. The court responded, “Okay. And I don’t disagree with you. [T]he issue before the Court is what has been filed by the personal representative in this matter, seeking possession of the real estate that is part of the estate. And to that end, based on the argument that’s been presented, I’m going to grant [Robinson’s] petition.” *Id.* On May 1, 2023, the trial court issued an order finding that the real estate “is an asset of the decedent’s estate and is wrongfully being held by Danielle Clinton and that Danielle Clinton should be directed to deliver possession of all personal property of the Estate and vacate the Real Estate within twenty (20) days of the subject hearing.” Appealed Order at 1. Clinton now appeals.

Discussion and Decision

[6] Robinson filed her verified petition for eviction pursuant to Indiana Code Section 29-1-13-10, which reads in relevant part as follows:

Upon the filing of a petition by the personal representative or any other person interested in the estate alleging that any person has, or is suspected to have, concealed, embezzled, converted or disposed, of any real or personal property belonging to the estate of a decedent, or has possession or knowledge of any such property or of any instruments in writing relating to such property, the court having probate jurisdiction, upon such notice as it may direct, may order such person to appear before it for disclosure, and may finally adjudicate the rights of the parties before the court with respect to such property.

[7] The gravamen of Clinton’s argument on appeal is that Robinson presented no evidence at the hearing to support her petition, and thus the trial court’s ruling

should be reversed. As indicated above, however, Clinton acknowledged Rogers's ownership of the real property by filing a claim against the Estate, and she asserted that she had a right to possession because she had paid Rogers for it, but she offered no testimony or documentary evidence at the hearing to support this assertion.¹ Accordingly, we affirm.

[8] Affirmed.

Pyle, J., and Tavitas, J., concur.

¹ Clinton also acknowledged that Robinson's disallowance of her claim had not (yet) been litigated. Tr. Vol. 2 at 8.