

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of the Estate of CORDELIA N.
HROMEK, a Protected Person.

EDWARD HROMEK, Conservator,

Petitioner-Appellee,

UNPUBLISHED
November 6, 1998

v

SHARON HROMEK,

Respondent-Appellant.

No. 203957
Macomb Probate Court
LC No. 95-145800 CV

Before: Wahls, P.J., and Holbrook, Jr. and Fitzgerald, JJ.

MEMORANDUM.

Respondent appeals as of right from a probate court order authorizing the sale of jointly owned Chrysler stock. We affirm.

A probate court's ruling on a petitioner's request for authorization to perform an act pertaining to an estate is reviewed for an abuse of discretion. *In re Rice Estate*, 138 Mich App 261, 270; 360 NW2d 587 (1984). Here, respondent challenges the probate court's order on two grounds. First, respondent argues that the ward in this case, Mrs. Cordelia Hromek (hereinafter "Mrs. Hromek"), was eligible for Medicaid, and therefore that the sale of stock was unnecessary. Second, she argues that petitioner and the probate court were required to preserve Mrs. Hromek's estate plan, and that the probate court's order destroys that plan. We find no merit in these arguments.

First, it is undisputed that the Michigan Family Independence Agency has ruled that Mrs. Hromek is not eligible for Medicaid. The State is not a party to this action, and thus, the question whether Mrs. Hromek *should* be eligible for Medicaid is irrelevant. It is also undisputed that, without Medicaid, Mrs. Hromek needs the proceeds from the stock sale to pay her expenses. Thus, the trial court properly concluded that the sale of stock was necessary.

Second, respondent admits that petitioner has the power to withdraw jointly held funds in order to provide for Mrs. Hromek's care.¹ However, she argues that MCL 700.487; MCA 27.5487 limits that power by requiring preservation of Mrs. Hromek's estate plan. That statute provides:

In investing in the estate, and in selecting assets of the estate for distribution under subsections (1) and (2) of section 485, in utilizing powers of revocation or withdrawal available for the support of the protected person, and exercisable by the conservator or the court, the conservator and the court should take into account any known estate plan of the protected person including . . . any contract, transfer, or joint ownership arrangement with provision for payment or transfer of benefits or interest at his death to another or others which he may have originated.

Clearly, this statute does not create an absolute duty to preserve the ward's estate plan when selling the ward's assets. Instead, the ward's estate plan is a factor to be considered. Here, the probate court took steps to preserve the estate plan by providing that any funds remaining at Mrs. Hromek's death become property of the joint owners. Under these circumstances, the requirements of MCL 700.487; MCA 27.5487 were met. Accordingly, the probate court did not abuse its discretion in authorizing the sale of Chrysler stock for the care and benefit of Mrs. Hromek.

Affirmed.

/s/ Myron H. Wahls
/s/ Donald E. Holdbrook, Jr.
/s/ E. Thomas Fitzgerald

¹ We express no opinion on this point. Instead, we rely on respondent's admission.