

STATE OF MICHIGAN
COURT OF APPEALS

THOMAS M. SHOAFF,

Plaintiff-Appellee,

v

ESTATE OF DUANE BALDWIN, DUANE V.
BALDWIN TRUST, THOMAS E. WOODS, as
Personal Representative of the Estate of Duane
Baldwin and as Trustee of the Duane V. Baldwin
Trust, GARY D. BALDWIN, as Former Personal
Representative of the Estate of Duane Baldwin,
MARY JO BALDWIN, as Former Trustee of the
Duane V. Baldwin Trust, JACOBS
MANAGEMENT, LLC, FFM CO, INC., DGM
CORPORATION, AGRICON, LLC,
STOCKBRIDGE LIMITED PARTNERSHIP #1,
STOCKBRIDGE LIMITED PARTNERSHIP #2,
STOCKBRIDGE LIMITED PARTNERSHIP #3,
STOCKBRIDGE PARTNERSHIP #4 and
STOCKBRIDGE LIMITED PARTNERSHIP #5,

Defendants,

and

ALLAN FALK and ALLAN FALK, P.C.,

Appellants.

UNPUBLISHED

July 1, 2008

No. 271296

Ingham Circuit Court

LC No. 99-090282-CZ

Before: Donofrio, P.J., and Sawyer and Murphy, JJ.

PER CURIAM.

Appellants appeal by leave granted an order of the circuit court setting aside their lien for attorney fees on certain real property that the circuit court had previously ordered transferred from the “entity defendants” to plaintiff. We vacate the circuit court’s order setting aside the lien for attorney fees.

This dispute arises from litigation between plaintiff and the various defendants and is one of three appeals that were submitted together to this Court. In the primary appeal in this case (Docket No. 270693), we held that the circuit court had improperly ordered the property transferred to plaintiff. That holding essentially renders the issue in this case moot, but necessitates a reversal.

Attorney Falk had represented the so-called “entity defendants” (the defendants except for the estate, its personal representatives, the trust, and its trustees) in the underlying litigation in which plaintiff ultimately was successful in having certain conveyances of real property from the decedent to the entity defendants set aside to make those assets available to satisfy plaintiff’s claim under an indemnification agreement signed by the decedent relative to a failed business venture with plaintiff.

In the primary appeal submitted with this case, we held that the effect of the prior judgment in setting aside those conveyances was to return the property to the ownership of the decedent and, therefore, the property became assets of the estate. Because the circuit court erred in ordering the ownership of the property transferred to plaintiff in partial satisfaction of plaintiff’s judgment, it necessarily follows that the trial court should never have entertained plaintiff’s motion to invalidate defendants’ attorney charging lien applied against the property, which resulted in the order being appealed here.

In other words, our decision in Docket No. 270693 renders the issue of the validity of appellants’ lien moot. Accordingly, we vacate the circuit court’s order invalidating appellants’ lien. We offer no opinion on the question whether appellants’ lien is valid or enforceable against the property previously owned by their clients. That is an issue to be resolved between appellants and the estate’s personal representative and, if there is a dispute, to ultimately be resolved in the appropriate proceeding between those parties.

The circuit court order of May 5, 2006, invalidating appellants’ lien is vacated. Appellants may tax costs.

/s/ Pat M. Donofrio
/s/ David H. Sawyer
/s/ William B. Murphy