STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0227

In re the Estate of: Stanley George Zych, Deceased, and
In the Matter of The Revocable Trust Agreement of Stanley George Zych
Dated May 23, 2013.

Filed December 12, 2022
Affirmed in part, reversed in part, and remanded
Johnson, Judge

Big Stone County District Court
File No. 06-PR-17-224

Robert G. Manly, Nicholas E. Evans, Vogel Law Firm, Fargo, North Dakota (for appellants Thomas Zych, James Zych, and Joyce Wilson)

Michael J. Dolan, Thornton, Dolan, Bowen, Klecker & Burkhammer, P.A., Alexandria, Minnesota (for respondent-personal representative Timothy Baland)

Gerald W. Von Korff, Nicholas R. Delaney, Rinke Noonan, Ltd., St. Cloud, Minnesota (for respondents Janet Zych, Sandra Steffes, Wayne Zych, and Dale Zych)

Considered and decided by Larson, Presiding Judge; Johnson, Judge; and Tracy M. Smith, Judge.

SYLLABUS

The personal representative of an estate may not sell real property that the testator has specifically devised by will.

OPINION

JOHNSON, Judge

Stanley George Zych died in 2017 at the age of 96. In his will, he left his various assets to his seven adult children. A probate action has been pending in the district court since November 2017. This appeal and cross-appeal concern the personal representative's

attempts to administer the estate in a way that accounts for significant debts that three of Stanley's children owe to the estate.

We conclude that the district court erred by ordering that the personal representative may sell a parcel of real property that Stanley specifically devised to two of his children, who are indebted to the estate. We also conclude that the district court erred in the form and amounts of three interim judgments that were entered against the three children who are indebted to the estate. But we further conclude that the district court did not otherwise err. Therefore, we affirm in part, reverse in part, and remand for further proceedings.

FACTS

During his lifetime, Stanley owned and farmed property in Traverse County and Big Stone County. He was married to Mary Zych, who died in 2005. Stanley and Mary had seven children, all of whom survived them: Thomas Zych, James Zych, Joyce Wilson, Janet Zych, Sandra Steffes, Wayne Zych, and Dale Zych.

Stanley's Will

The distribution of Stanley's estate is governed by a 2007 will.[1] Several provisions of that will relate to Stanley's real property. In article IV, paragraph C, Stanley bequeathed approximately 278 acres of farmland in section 4 of Toqua Township of Big Stone County, including his homestead, to Thomas and James as tenants in common. The parties refer to

[1]Stanley also signed a will in 2013, after his health had declined. Some of his children challenged the validity of the 2013 will. After a five-day trial in 2019, the district court ruled that the 2013 will is invalid because Stanley lacked capacity to execute it. This court affirmed. *In re Estate of Zych*, No. A19-1596, 2020 WL 5507813 (Minn. App. Sept. 14, 2020), *rev. denied* (Minn. Nov. 25, 2020).

this parcel as "the home farm." The home farm had an appraised value of $1,790,000 at the time of Stanley's death. In article IV, paragraphs A and B, Stanley bequeathed approximately 312 acres of farmland to Dale and to a trust for the benefit of Wayne and Wayne's children. In addition, article VIII of the will provides that, during the administration of the estate, Stanley's children "shall have the option to purchase any farmland in the estate which is not specifically bequeathed" based on Stanley's "intent that none of the land be sold to non-family members." At Stanley's death, only one parcel of farmland fit the description in article VIII: 166 acres of farmland in section 30 of Toqua Township.

Stanley's will also provides for the distribution of his personal property. In article III, he expressed his intention to leave his three daughters certificates of deposit (CDs) that he jointly owned with them. In article II, Stanley directed that his household possessions be divided equally among his children. And in article VI, he directed that the residue of his estate also be divided equally among six of his children and the trust benefitting Wayne and Wayne's children.

In short, Stanley intended to bequeath his farmland to his four sons, his CDs to his three daughters, and his other property to all seven children. In the last article of his will, he wrote: "I close this will loving you all. Care for your brothers and sisters."

Stanley's Assets

In the period between Stanley's execution of his 2007 will and his death in 2017, his health declined significantly. Consequently, Thomas and Joyce managed Stanley's assets pursuant to a power of attorney. The district court found that Thomas, James, and

Joyce mismanaged his assets and converted assets to their own purposes in various ways that are not disputed on appeal and are too numerous and complex to fully describe in this opinion. Nonetheless, we will briefly summarize some of the underlying issues.

As stated above, Stanley's will provided for his three daughters primarily by leaving them CDs. In 2007, Stanley held CDs with a total value of approximately $600,000. At his death in 2017, Stanley's CDs had a total value of $85,000. Between 2008 and 2014, Thomas and Joyce redeemed most of Stanley's CDs and used the proceeds to write checks on Stanley's behalf to various family members totaling $354,000. Thomas directed the family members to cash the checks and to write checks to him in the same amounts. Thomas deposited those funds into a brokerage account that he established in his own name. Thomas invested the funds in certain equity investments, which, between 2011 and 2017, generated dividends and interest totaling approximately $253,000 but investment losses of approximately $442,000. In 2010, Thomas transferred the brokerage account to Joyce because of Thomas's impending bankruptcy. In 2019, the district court ordered that the brokerage account belongs to the estate. Based on the report of a forensic accountant retained by the sibling respondents, the district court found that, but for Thomas's and Joyce's actions, Stanley would have owned CDs worth $888,222.97 at his death. The district court ordered that each of Stanley's three daughters is entitled to a distribution of CDs or cash in lieu of CDs equal to one-third of that amount. The district court found that Thomas is liable to the estate for the losses associated with the redemptions of the CDs and the mismanagement of the proceeds.

At the request of the personal representative, the district court made numerous findings that Thomas, James, and Joyce had inappropriately converted other assets or had incurred other debts to Stanley. For example, the district court found that Thomas and James had failed to pay Stanley approximately $195,000 in rent on the home farm between 2014 and 2017. The district court found that, during the administration of the estate, Thomas and James had wrongfully taken and marketed, or mishandled, harvested soybeans resulting in a loss of approximately $479,000. The district court found that Thomas wrongfully used $60,000 of Stanley's money to make a payment of earnest money and withdrew $10,000 from the investment account without repaying it. The district court found that Joyce and her husband used Stanley's bank account to pay for credit-card purchases for themselves totaling approximately $120,000. As a consequence of these findings, the amounts of which are not disputed for purposes of this appeal, Thomas, James, and Joyce owe significant sums to the estate, as described further below.

Probate Proceedings

In November 2017, Janet petitioned the district court for the formal probate of Stanley's 2007 will and the appointment of a personal representative. Janet alleged, among other things, that Thomas, James, and Joyce had exercised undue influence over Stanley when he signed a will and a trust agreement in 2013, had wrongfully caused Stanley to dispose of certain assets, and had misappropriated other property that had belonged to Stanley. In December 2017, Thomas, James, and Joyce objected to Janet's petition and filed a counter-petition for the formal probate of Stanley's 2013 will and the appointment of Thomas and Joyce as personal representatives.

In April 2018, Janet moved for an order enjoining Thomas and Joyce from, among other things, liquidating or disposing of assets that previously belonged to Stanley and from occupying the former homestead. In July 2018, the district court granted Janet's motion in part. In August 2018, the district court appointed Timothy J. Baland, a retired judge, to serve as a neutral personal representative of the estate.

The district court conducted a trial on five days in January and February 2019. In August 2019, the district court issued a 42-page decision with findings of facts, conclusions of law, and an order. The district court ordered that the 2013 will and the 2013 trust agreement are void; that the 2007 will is the only valid will; that certain quit-claim deeds of real property that belonged to Stanley are void and that those properties are part of Stanley's estate; and that Thomas, James, and Joyce are responsible for attorney fees and costs incurred by the estate.

The district court's August 2019 order did not resolve all issues. The district court held a post-trial hearing in November 2019 to address unresolved issues concerning the values of assets of the estate. In February 2020, the district court issued an 18-page order that resolved most but not all remaining issues. Among other things, the district court found that harvested soybeans in ten identified grain bins were property of the estate, that the personal representative was authorized to take possession of the soybeans and sell them, and that all parties must cooperate in the process. Later that year, the personal representative sought to hold Thomas and James in contempt of court on the ground that they did not cooperate with the personal representative's efforts to ascertain the amount of harvested soybeans in grain bins and to market the grain. In addition, Janet, Sandra,

Wayne, and Dale moved for sanctions and for damages based on Thomas's and James's conduct with respect to the harvested soybeans. The district court issued a second post-trial order in March 2021 and a third post-trial order in June 2021, which determined the value of CDs Stanley would have owned, liability for missing and damaged grain, and the value of farm equipment and personal vehicles.

In August 2021, the personal representative requested an order determining Thomas's, James's, and Joyce's debts to the estate; establishing a timeframe for them to pay off their debts to the estate; ordering the entry of interim money judgments against Thomas, James, and Joyce; allowing the sale of the home farm if Thomas and James did not promptly pay their debts to the estate; and authorizing the sale of the section 30 property to Dale. Thomas, James, and Joyce opposed the personal representative's request and asked the district court to order a final accounting before entering judgments and to require the personal representative to allow them to bid on the section 30 property.

In December 2021, the district court issued its fourth post-trial order, which is the order now on review. The district court ordered the entry of three interim judgments against Thomas, James, and Joyce in the amounts of $1,942,212.03, $850,675.34, and $291,578.67, respectively. The district court ordered that the personal representative could sell the section 30 property in a private family auction, with Thomas's, James's, and Joyce's rights to participate conditioned on their promptly satisfying their respective interim judgments. The district court also granted the personal representative's request to sell the home farm in a private family auction unless Thomas and James promptly satisfied their respective interim judgments.

Thomas, James, and Joyce (hereinafter appellants) filed a notice of appeal. Janet, Sandra, Wayne, and Dale (hereinafter sibling respondents) filed a notice of related appeal. The personal representative has appeared by filing a brief in opposition to appellants' brief.

ISSUES

I. Did the district court err by granting the personal representative's request to sell the home farm, which Stanley specifically devised to Thomas and James, if Thomas and James do not promptly satisfy their interim judgments?

II. Did the district court err in ordering the entry of interim judgments against Thomas, James, and Joyce and by making each judgment debtor's satisfaction of his or her interim judgment a condition of participating in a private family auction of the section 30 property?

III. Should this court direct the district court to expeditiously resolve all pending issues?

ANALYSIS

I.

We begin by considering Thomas and James's argument that the district court erred by granting the personal representative's request to sell the home farm in a private family auction, despite the fact that Stanley's will specifically devised that property to them. Thomas and James contend that the district court's order is contrary to both Stanley's will and the Minnesota Probate Code, which is based on the Uniform Probate Code (UPC). In response, the sibling respondents argue that Stanley's will "does not override the personal representative's ability to sell property based on the best interests of the estate and in accord

with fiduciary principles." The personal representative argues that the district court's order should be affirmed because the district court "balanced the wishes of the decedent against the needs of the estate." We apply a *de novo* standard of review to both the interpretation of an unambiguous will and to the meaning and application of a statute. *See In re Estate of Bach*, 979 N.W.2d 430, 433-34 (Minn. 2022); *In re Estate of Short*, 933 N.W.2d 533, 537 (Minn. App. 2019).

A.

Thomas and James's argument finds support in several provisions of the probate code. The most pertinent provision states, "A specific devisee has a right to the specifically devised property in the testator's estate at death . . . ." Minn. Stat. § 524.2-606(a) (2022). In addition, "the distributable assets of a decedent's estate shall be distributed in kind to the extent possible," and a "specific devisee is entitled to distribution of the thing devised." Minn. Stat. § 524.3-906(a), (a)(1) (2022). Furthermore, real property that is specifically devised by will devolves to the devisee upon the death of the testator. Minn. Stat. § 524.3-101 (2022). Accordingly, "a valid, transferable ownership interest in real property devolves immediately upon a testator's death to a person to whom the property is devised by the testator's will." *Laymon v. Minnesota Premier Props., LLC*, 903 N.W.2d 6, 15 (Minn. App. 2017), *aff'd*, 913 N.W.2d 449 (Minn. 2018).

Notwithstanding these provisions, specifically devised real property is "subject to . . . administration" by the personal representative. Minn. Stat. § 524.3-101. "During the period of administration, 'every personal representative has a right to, and shall take possession or control of, the decedent's property.'" *Laymon*, 903 N.W.2d at 16 (quoting

Minn. Stat. § 524.3-709 (2016)). While in possession or control of a decedent's real property, the personal representative "has the same power over the title to property of the estate that an absolute owner would have, in trust however, for the benefit of the creditors and others interested in the estate." Minn. Stat. § 524.3-711 (2022). Likewise, the personal representative "shall . . . take all steps reasonably necessary for the management, protection and preservation of" the property. Minn. Stat. § 524.3-709 (2022). Ultimately, the personal representative "is under a duty to settle and distribute the estate of the decedent in accordance with the terms of any probated and effective will and applicable law." Minn. Stat. § 524.3-703(a) (2022). In doing so, a personal representative must "see that the assets constituting the testator's estate are not diverted from the course prescribed by the testator." *In re Estate of Schroeder*, 441 N.W.2d 527, 530 (Minn. App. 1989) (quoting *In re Healy's Estate*, 76 N.W.2d 677, 680 (Minn. 1956)), *rev. denied* (Minn. Aug. 15, 1989).

A personal representative's authority to administer an estate includes the authority to take various actions and enter into various transactions with respect to assets of the estate. *See generally* Minn. Stat. § 524.3-715 (2022). But the statute providing such authority begins with an important exception: "Except as restricted or otherwise provided by the will . . . ." *Id.* One of the expressly enumerated powers of a personal representative is the power to "sell, mortgage, or lease any real or personal property of the estate or any interest therein." *Id.* § 524.3-715(23). But, again, this power is subject to an important exception: "unless the property has been specifically devised to a devisee or heir by

decedent's will." *Id.*[2] Together, the exception at the beginning of section 524.3-715 and the exception in paragraph (23) of that section establish that a personal representative's powers of administration do not include the power to sell real property that has been specifically devised by a testator's will.

There is no precedential caselaw in Minnesota illustrating this proposition. This court however, has issued an unpublished, non-precedential opinion that supports Thomas and James's argument. In *In re Estate of Radjenovich*, No. C1-90-2308, 1991 WL 70304 (Minn. App. May 7, 1991), the testator devised two adjoining parcels of real property to his two sons, with one parcel for each son. *Id.* at *1. The personal representative requested permission to sell the parcels before distribution because the applicable zoning ordinance would not allow the construction of a home or homes on the property. *Id.* The district court denied the request. *Id.* On appeal, the personal representative argued that the will conferred on him "broad administrative powers" to sell the property. *Id.* We rejected that argument by stating that "the intention of the testator, as taken from the will as a whole, controls the exercise of powers granted to the personal representative." *Id.* Without citing any provision of the probate code, we reasoned that "a general power authorizing the sale or rental of any property which the testator possessed at the time of death applies only to property not specifically devised." *Id.*

[2]The "unless" clause of paragraph (23) does not appear in the UPC and was not in the Minnesota Probate Code when it was first adopted in 1974. Minn. Stat. § 524.3-715 (1974); 1974 Minn. Laws ch. 442. The "unless" clause was added to paragraph (23) by a 2006 amendment. 2006 Minn. Laws ch. 221, § 21, at 26-27.

In light of the lack of precedential Minnesota caselaw on point, we have reviewed the caselaw of other UPC states. *See* Minn. Stat. § 524.1-102(b)(4) (2022) (stating that Minnesota probate code should be applied "to make uniform the law among the various jurisdictions"); *Laymon*, 903 N.W.2d at 17 (considering opinions of courts of other UPC states). There are very few opinions on point. The most helpful opinion of another UPC state is *In re Estate of Olson*, 744 N.W.2d 555 (S.D. 2008), in which the testator devised 132 acres of farmland, including his former homestead, to seven nieces and nephews. *Id.* at 557. The personal representative sold the property without notice to any of the devisees. *Id.* One nephew objected to the sale. *Id.* at 557-58. The trial court ruled that the personal representative had the power to sell the property and confirmed the sale despite the lack of notice. *Id.* But the appellate court disagreed, reasoning that UPC sections 2-606 and 3-906 confer on a devisee a right to specifically devised property and generally require the in-kind distribution of devised assets. *Id.* at 560. The court further reasoned that UPC section 3-715 limits a personal representative's authority to sell property of the estate if "a contrary provision is contained in the will," that the will in that case "restrict[ed] the power of sale through a specific devise of real property," and that the specific devise "exhibits the testator's clear intent that the land not be sold." *Id.* at 560, 561. The court added, "Were we to hold to the contrary, . . . it would essentially nullify the provisions of" UPC sections 2-606 and 3-906. *Id.* at 561. Accordingly, the court reversed the order confirming the sale. *Id.* at 564.[3]

[3]We have identified two opinions of other UPC states that are contrary to *Olson*. *See Mark v. Johnson (In re Estate of Johnson)*, 863 N.W.2d 215 (N.D. 2015); *Northland*

Article IV, paragraph C, of Stanley's will provides, "I give and bequeath the following real estate located in Big Stone County, Minnesota [*i.e.*, the home farm] to Thomas Zych and James Zych, as tenants in common." The will also provides that the personal representative has various powers with respect to assets of the estate, including the power to sell trust assets, "[e]xcept as may be otherwise expressly directed or required in my Will." As in *Olson*, this language "exhibits the testator's clear intent that the land not be sold." *See* 744 N.W.2d at 561.

Royalty Corp. v. Engel, 339 P.3d 599 (Mont. 2014). But we believe that *Mark* and *Northland* should not control in this appeal for three reasons. First, the *Mark* and *Northland* opinions do not acknowledge or give effect to the exception at the beginning of UPC section 3-715, which provides, "Except as restricted or otherwise provided by the will . . . ." *See Mark*, 863 N.W.2d at 219-22; *Northland*, 339 P.3d at 601-02. Second, the *Mark* and *Northland* opinions do not account for the additional exception in Minnesota's version of section 3-715, which provides that the personal representative has the power to sell real property "*unless the property has been specifically devised to a devisee or heir by decedent's will*." Minn. Stat. § 524.3-715(23) (emphasis added). Third, in our view, the *Mark* and *Northland* opinions improperly rely on *Green v. Gustafson*, 482 N.W.2d 842 (N.D. 1992). The *Northland* opinion cites *Green* for the proposition that "a personal representative has the power to sell property within the estate, even if that property is specifically devised in the will." 339 P.3d at 601. But we do not read the *Green* opinion to include such a holding. The appellant in *Green* claimed an interest in specifically devised property that arguably had been sold to a third party. 482 N.W.2d at 843-45. On appeal, the appellant conceded that the probate statutes "authorized [the executor of an estate] to sell the estate's interest in the property to" third parties. *Id.* at 846. The appellant sought relief on other grounds that are not relevant to this appeal. *Id.* It appears that the point at issue in this appeal—whether a personal representative can sell property specifically devised in the will—was not actually at issue in *Green*. For that reason, the appellant's concession in *Green* should have no effect on Minnesota law. *See Skelly Oil Co. v. Commissioner of Tax'n*, 131 N.W.2d 632, 645 (Minn. 1964) (stating that opinions must be read in light of "the specific controversy then before this court"); *Chapman v. Dorsey*, 41 N.W.2d 438, 443 (Minn. 1950) (stating that opinions are not precedential on issues "never raised or called to the attention of the court").

Thus, the district court's order allowing the personal representative to sell the home farm is inconsistent with sections 524.2-606, 524.3-906, 524.3-101, and 524.3-715 of the probate code.

B.

The sibling respondents argue that the district court's order is justified by the personal representative's right of retainer. The respondents rely on a statute captioned "Right of Retainer," which provides:

> The amount of a noncontingent indebtedness of a successor to the estate if due, or its present value if not due, shall be offset against the successor's interest; but the successor has the benefit of any defense which would be available to the successor in a direct proceeding for recovery of the debt.

Minn. Stat. § 524.3-903 (2022). The sibling respondents contend that this statutory provision authorizes the personal representative to sell the home farm and to use the proceeds of the sale to offset Thomas' and James' debts to the estate. In response, Thomas and James argue that the right of retainer does not authorize a personal representative to sell real property that is specifically devised by will.

Section 524.3-903 has been cited in only a few Minnesota appellate opinions and, apparently, only in connection with a devise of personal property. *See, e.g.*, *Hurtig v. Gabrielson*, 525 N.W.2d 612, 613-14 (Minn. App. 1995), *rev. denied* (Minn. March 14, 1995); *In re Estate of Fauskee*, 497 N.W.2d 324, 326-27 (Minn. App. 1993), *rev. denied* (Minn. May 18, 1993); *In re Will of Cargill*, 420 N.W.2d 268, 271-72 (Minn. App. 1988).

We are unaware of any Minnesota caselaw applying section 524.3-903 in connection with a devise of real property.

We have identified only two such opinions of courts of other UPC states. First, in *Dewey v. Potthoff (In re Estate of Potthoff)*, 573 N.W.2d 793 (Neb. Ct. App. 1998), the decedent's will specifically devised real property to a son who owed the decedent approximately $242,000. *Id.* at 794-95. At the personal representative's request, the trial court ordered that a lien be imposed on the son's devise of real property. *Id.* at 795. The appellate court affirmed by reasoning that "the imposition of a lien was a reasonable method for the county court to ensure accomplishment of the offset mandated by" UPC section 3-903. *Id.* at 797. Second, in *Hogen v. Hogen (In re Estate of Hogen)*, 863 N.W.2d 876 (N.D. 2015), the decedent's will specifically devised farmland and other assets to her two sons, one of whom owed her approximately $123,000. *Id.* at 880-82. The district court ruled that the debt should be offset against the son's interest in the estate in some unspecified manner. *Id.* at 882. The appellate court concluded that UPC section 3-903 applied "to authorize the personal representative, during administration of the estate, to pursue a retainer claim against real property in an estate for assertions involving a devisee's . . . obligations to the decedent or the estate" and that, accordingly, "a devisee's title to the decedent's property is encumbered as long as the estate is subject to administration." *Id.* at 889. Neither *Dewey* nor *Hogen* held that UPC section 3-903 allowed an executor or personal representative to sell specifically devised real property and use the proceeds of the sale to offset a devisee's debt to the estate. To our knowledge, no court has applied UPC section 3-903 in that manner.

Thus, section 524.3-903 is not authority for the district court's order allowing the personal representative to sell the home farm and apply the proceeds of the sale to Thomas's and James's debts to the estate. Section 524.3-903 authorizes no more than the imposition of a lien on the property devised to Thomas and James. *See Dewey*, 573 N.W.2d at 797; *Hogen*, 863 N.W.2d at 889.

C.

In sum, the district court's order allowing the personal representative to sell the home farm is inconsistent with sections 524.2-606, 524.3-906, 524.3-101, and 524.3-715 of the probate code and is not authorized by section 524.3-903. The district court's order also is inconsistent with the long-standing common-law principle that, in distributing real property, "'the intention of the testator, as expressed in the language used in the will, shall prevail, if it is not inconsistent with the rules of law.'" *Bach*, 979 N.W.2d at 434 (quoting *In re Trust Created by Will of Tuthills*, 76 N.W.2d 499, 502 (Minn. 1956)).

We fully understand and appreciate the purposes of the district court's order. The personal representative sought to avoid the anomalous situation in which Thomas and James receive a valuable asset from the estate despite owing significant debts to the estate, thereby frustrating the personal representative's plan to distribute cash to Stanley's daughters in lieu of CDs. We also understand that Thomas and James had impeded the administration of the estate in various ways, such as by willfully disobeying court orders with respect to harvested soybeans stored on the home farm, which resulted in a joint debt to the estate of nearly half a million dollars. If there were a legal basis for the district court's order allowing a sale of the home farm, the circumstances of this case and the

evidentiary record would supply an ample factual basis. But there is no legal basis for an order allowing the personal representative to sell specifically devised real property.

Therefore, the district court erred by allowing the personal representative to sell the home farm, which must be distributed to Thomas and James pursuant to Stanley's will.

II.

We next consider appellants' argument that the district court erred for three reasons when it entered interim judgments against them.

In its fourth post-trial order, the district court found that appellants owed the following debts to the estate, individually and collectively:

> Thomas: $1,286,868.83
> James: $2,978.00
> Joyce: $183,941.36
> Thomas and James, jointly and severally: $740,060.03
> Thomas, James, and Joyce, jointly and severally: $107,337.31

The sum of these five amounts is $2,321,185.53. The district court administrator entered three interim judgments against the three appellants in the following amounts:

> Thomas: $1,942,212.03
> James: $850,675.34
> Joyce: $291,578.67

The sum of these three amounts is $3,084,466.04.

A.

Thomas argues that the district court erred in determining the amount of his individual debt by double-counting one component of the debt.

The district court found that Thomas owes the estate $888,222.97 for his wrongful conduct in redeeming Stanley's CDs and mismanaging the proceeds of the redemptions.

The $888,222.97 amount is equal to the district court's finding of the expected value of Stanley's CDs if Thomas had not engaged in his wrongful conduct.

Thomas asserts that some of the proceeds of Thomas's CD redemptions—approximately $433,000—is in the brokerage account, which has been delivered to the personal representative. Thomas contends that his $888,222.97 debt should be reduced by the funds that were not lost but are retained by the estate. The sibling respondents do not respond to Thomas's argument. The personal representative responds by noting that the interim judgments are not final but merely temporary and that a final accounting likely will include additional amounts that are not presently included in the interim judgments. The personal representative does not dispute that a double-counting occurred.

We agree with Thomas that the district court erred by finding that he owes the estate $888,222.97, the full expected value of the CDs, without accounting for the proceeds of CD redemptions that are retained by the estate. The district court's order and interim judgments charge Thomas for more than Stanley lost due to Thomas's actions with respect to the CDs. On remand, the district court shall credit Thomas with the value of the proceeds of CD redemptions that have been retained by the estate.

B.

Thomas and James argue that the district court erred by not crediting them for rental income from the home farm during the administration of the estate.

Since at least 2018, Wayne has rented the farmland portion of the home farm. Wayne paid rent directly to Thomas and James in 2018 but paid rent to the personal representative in 2019, 2020, and 2021. In the district court, the personal representative

suggested that Thomas and James should be credited with the rent received by the estate in 2019, 2020, and 2021, which would have benefitted each of them in the amount of $102,066.25. The district court noted the issue but did not apply the suggested credits to Thomas's and James's debts.

Thomas and James contend that the district court erred by not crediting them with rental income from the home farm, which has been specifically devised to them. Neither the sibling respondents nor the personal representative respond to this particular argument. As stated above, Thomas and James's interest in the home farm devolved to them immediately upon Stanley's death. *See* Minn. Stat. § 524.3-101; *Laymon*, 903 N.W.2d at 15. Accordingly, Thomas and James are entitled to the rental income that is generated by that property during the administration of the estate. Thus, the district court erred by not reducing their debts accordingly. On remand, the district court shall apply appropriate credits to each of them, including a credit in the amount of $102,066.25 for the period of 2019 to 2021.

C.

All three appellants argue that the district court erred in determining the form and amounts of the three interim judgments. Specifically, appellants argue that the interim judgments exaggerate the total amount owed to the estate because the interim judgments account for joint and several liability in a duplicative manner. They contend further that, because satisfaction of an interim judgment is a condition of each appellant's participation in the private family auction of the section 30 property, the overstated amounts of the interim judgments unfairly prevent them from bidding on the section 30 farmland. The

sibling respondents do not respond to appellants' argument. The personal representative responds by arguing that the form and amounts of the interim judgments are within the district court's discretion.

If a district court orders joint and several liability, "parties to a joint obligation . . . shall be severally liable . . . for the full amount thereof." Minn. Stat. § 548.20 (2022). If a judgment debtor satisfies a judgment, either in whole or in part, the district court administrator must enter the satisfaction on the judgment roll and note it on the docket. Minn. Stat. § 548.15, subd. 1 (2022). A judgment creditor must file a certificate of satisfaction within 10 days after a judgment is satisfied. *Id.*

In its fourth post-trial order, the district court noted that the personal representative did not intend to "collect the full joint and several award from each" appellant because doing so "would result in the estate recovering more in total than it is due." The district court further stated that the court "would not approve of that." But the district court reasoned that appellants could "sort things out among themselves without further burden to the estate."

Despite the district court's acknowledgment that the estate should not recover the total amount of the three interim judgments, that principle is not reflected on the face of the interim judgments. The district court administrator is responsible for entering satisfactions of judgments. Minn. Stat. § 548.15, subd. 1. But the district court did not make any provision for the satisfaction of one appellant's interim judgment based on a payment by another appellant. Consequently, the interim judgments might result in an overpayment. The interim judgments also might result in an individual appellant being

denied the opportunity to bid on the section 30 property despite having paid his or her fair share or pro-rata share of a joint-and-several liability. Thus, the district court erred by ordering the entry of three interim judgments in duplicative amounts. On remand, the district court shall order the entry of five judgments: one each for Thomas, James, and Joyce; one for Thomas and James; and one for Thomas, James, and Joyce.

Thus, the district court erred in both the form and amounts of the three interim judgments.

III.

For their cross-appeal, the sibling respondents urge this court to direct the district court to expeditiously resolve all pending matters. Specifically, the sibling respondents ask this court to direct the district court to do two things: first, "to facilitate the personal representative's efforts to collect the assets of the estate . . . and to wind up administration with all deliberate speed," and, second, "to allow the personal representative to sell the [home farm] and [section] 30 properties by private sale, or other mechanism that he determines will best facilitate the prompt and efficient winding up of the estate." In response, appellants argue that the sibling respondents have not established any particular error in any of the district court's prior orders.

The essential purpose of a notice of appeal is to allow this court to review a district court's prior orders and judgments to determine whether the district court has committed a legal error. *See* Minn. R. Civ. App. P. 103.04. The sibling respondents have not identified any particular order or ruling of the district court that they claim is erroneous. Their

argument resembles a request for mandamus relief. But the sibling respondents have not filed a petition for writ of mandamus. *See* Minn. R. Civ. App. P. 120.

Thus, the sibling respondents' cross-appeal does not require this court to determine the lawfulness of any prior order or ruling of the district court. We understand that a few steps remain, such as the preparation of a final accounting and the resolution of issues concerning interest, attorney fees, expenses, and costs. But we are confident that the personal representative and the district court share the parties' desires to proceed expeditiously toward the completion of the administration of the estate, the distribution of assets, and the closing of the estate.

DECISION

The district court erred by ordering that the personal representative may sell the home farm, which was specifically devised by will to Thomas and James. The district court also erred in ordering the entry of the three interim judgments. The district court did not otherwise err. Therefore, we affirm in part, reverse in part, and remand for further proceedings.

Affirmed in part, reversed in part, and remanded.