

IN THE UTAH COURT OF APPEALS

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Marian B. Boulton, David	)	MEMORANDUM DECISION
Boulton, and Steven Boulton,	)	(Not For Official Publication)
	)	
Plaintiffs and Appellants,	)	Case No. 20050391-CA
	)	
v.	)	
	)	F I L E D
Carl H. Bronn, alternate	)	(March 9, 2006)
trustee of "The Alice May	)	
Hughes Bronn Trust"; and Carl	)	2006 UT App 91
H. Bronn, individually,	)	
	)	
Defendants and Appellees.	)	

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Second District, Farmington Department, 030700067  
The Honorable Darwin C. Hansen

Attorneys: George K. Fadel, Bountiful, for Appellants  
Bart J. Johnsen, Salt Lake City, for Appellees

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Before Judges Bench, Davis, and Thorne.

DAVIS, Judge:

Marian, David, and Steven Boulton (the Boultons) appeal the trial court's determination that The Alice May Hughes Bronn Trust (the Trust) was partially revoked. We affirm.

The trial court found that Alice May Hughes Bronn, settlor-trustee of the Trust, sold two parcels of real property that were the primary assets of the Trust. She deposited the funds from the sale into her personal bank account and later invested a portion of the funds into two investment accounts under her own name and not as trustee of the Trust. Bronn and her husband later moved to Virginia, where Bronn consolidated her investment accounts into a single First Union National Bank account, again in her own name and not as a trustee of the Trust. The trial court concluded that Bronn's actions revoked the Trust with regard to the two parcels of real property. The Boultons disagree and claim that Bronn intended the proceeds from the sale to remain part of the Trust.

We review the trial court's conclusions of law for correctness, see State v. Pena, 869 P.2d 932, 936 (Utah 1994), while the trial court's "[f]indings of fact, whether based on

oral or documentary evidence, shall not be set aside unless clearly erroneous," Utah R. Civ. P. 52(a).<sup>1</sup> The Trust's deed of conveyance and declaration (the Trust Declaration) is clear on three matters. First, it designates Bronn as the sole beneficiary of the Trust during her lifetime; second, it grants her power "to use, transfer, contract to sell, . . . convey and in every way deal in and with the said real property . . . without notice to or consent from any person"; and third, it grants her power "to modify, amend, or revoke the [T]rust in whole or in part in any manner at any time."

It is undisputed that Bronn created a revocable trust. Accordingly, where no specific method of revocation is required, she may revoke the Trust in "any . . . method manifesting clear and convincing evidence of [her] intent." Utah Code Ann. § 75-7-605 (Supp. 2004). Where Bronn sold the property of the Trust and deposited it into three subsequent personal accounts without designating herself as trustee or the funds as trust funds, the trial court properly found that she revoked the Trust respecting that property. See 90 C.J.S. Trusts § 115 (2002) ("Where a settlor retains the power to sell certain property subject to a trust, and later conveys the property to someone else, the conveyance itself is an implied revocation of the trust, since the trustee and the beneficiary are divested of all interest in the property.").

The Boultons contend that the sale and transfers do not amount to a revocation. They argue first that Bronn did not clearly manifest an intent to revoke the Trust because she did not consult an attorney, declare a revocation, or otherwise document her intent. However, where the Trust Declaration provides that Bronn could sell or transfer the Trust property "without notice to or consent from any person" and "revoke the [T]rust in whole or in part in any manner at any time," we decline to presume that a revocation could be evidenced only by taking specified steps. Secondly, the Boultons contend that no

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<sup>1</sup>The Boultons contend that in this case, where the bulk of the evidence is in the form of documents, we should review the trial court's findings for correctness. Although "'[q]uestions of contract interpretation not requiring resort to extrinsic evidence' are matters of law," Fairbourn Commercial, Inc. v. American Hous. Partners, Inc., 2004 UT 54, ¶6, 94 P.3d 292 (alteration in original) (quoting Zions First Nat'l Bank v. National Am. Title Ins. Co., 749 P.2d 651, 653 (Utah 1988)), the trial court's findings here were based on more than the terms of a contract. The court relied upon a variety of evidence, including the Trust deed, documents relating to the sale of the Trust property, documents relating to the creation of the First Union National Bank account, and the testimony of witnesses.

revocation occurred because the Trust Declaration here, unlike the trust in In re Estate of West, 948 P.2d 351 (Utah 1997), did not contain a provision specifically providing that the transfer or sale of the Trust property would operate as a revocation. This argument is unavailing because West does not mandate the use of such a provision and, even were we to accept the Boultons' reading of West, the instant Trust Declaration grants broader powers of revocation to the settlor-trustee than did the trust in West.

Finally, the Boultons claim that Bronn intended the proceeds to remain part of the Trust because she signed her name as trustee on the sale documents. This argument does not support the Boultons' proposition because it is totally appropriate for the trustee of a trust to sign her name as trustee to assure the legal validity of the conveyance. See 76 Am. Jur. Trusts § 533 (2005) ("[I]t is desirable for the trustee in the transfer instrument to recite that he or she is acting as a trustee in the matter, or at least affix his or her signature as trustee."). But here, where the settlor-trustee retains broad powers to revoke, the settlor-trustee's subsequent actions in dealing with the proceeds is more indicative of her intended characterization of the assets than is the signature block on the transfer instruments. Cf. TWN v. Michel, 2003 UT App 70, ¶12, 66 P.3d 1031 (noting that "[t]he unexplained use of the word 'trustee' on a real property deed does not, absent other circumstances . . . , create a trust or implicate only a trust interest"). Indeed, the Boultons' argument cuts the other way. Bronn's conveyance as trustee and her later transfers in a personal capacity suggest her awareness of a difference.

Accordingly, we affirm the trial court's determination that the Trust was revoked with regard to the two parcels of real property.

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James Z. Davis, Judge

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WE CONCUR:

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Russell W. Bench,  
Presiding Judge

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William A. Thorne Jr., Judge