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STATE OF MINNESOTA
IN COURT OF APPEALS
A23-0413

In re the Estate of Joseph Andre Reis, Deceased.

Filed March 4, 2024
Affirmed in part, reversed in part, and remanded
Hooten, Judge*

Wright County District Court
File No. 86-PR-21-1963

Mitzi Mellott, Rhonda J. Magnussen LLC, Elk River, Minnesota (for appellant Jennifer Eid)

James W. Hess, Hess & Jendro Law Office, P.A. Elk River, Minnesota (for respondent Jessica Reis)

Considered and decided by Connolly, Presiding Judge; Reyes, Judge; and Hooten, Judge.

NONPRECEDENTIAL OPINION

HOOTEN, Judge

In this probate dispute, appellant argues that the record does not support the district court's determinations that (1) appellant does not qualify as an omitted spouse from the decedent's premarital will under Minn. Stat. § 524.2-301 (2022), and (2) appellant is not entitled to a pickup truck under Minn. Stat. § 524.2-403 (2022). We affirm in part, reverse in part, and remand.

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* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

FACTS

This appeal concerns the estate of Joseph Andre Reis (the decedent). In early 2020, doctors told the decedent, who had been diagnosed with cancer over a decade beforehand, that he may only have a few months left to live. The decedent asked his sister, respondent Jessica Reis,[1] to help him find an attorney to update his will because he wanted to name Reis as personal representative and make sure their mother was taken care of financially. Reis referred him to Douglas Murch. Murch thereafter met with the decedent on several occasions throughout the latter half of 2020, and the decedent executed a will on November 6, 2020.

On December 3, 2020, the decedent married appellant Jennifer Eid. The decedent and Eid met in 2009 and had been in a long-term relationship, but the decedent's will did not include a provision for Eid. The decedent never revised the will after his marriage to Eid. However, in October 2020, the decedent named Eid as the beneficiary of his retirement account, which was worth approximately $90,000. The decedent also added Eid to the title of a Volkswagen Jetta automobile on March 24, 2021.

The decedent passed away on March 28, 2021. Eid subsequently filed a petition in Wright County for probate of the decedent's will and to have Reis formally appointed as personal representative. Reis filed an objection asserting that North Dakota was the proper venue, but the district court determined that Minnesota was the proper venue and appointed Reis as personal representative. In September 2021, Eid filed a petition requesting, as

[1] All references in this opinion to "Reis" are to Jessica Reis; we refer to Joseph Reis as "the decedent."

relevant here, that the district court (1) determine that Eid is an omitted spouse from a premarital will and therefore entitled to a share of the decedent's estate under Minn. Stat. § 524.2-301, and (2) order Reis to turn over possession of a Ford F350 pickup truck owned by decedent to Eid as exempt property pursuant to Minn. Stat. § 524.2-403(a)(2).

At an evidentiary hearing, the district court heard testimony on the decedent's intent in creating his will. Murch testified that he and the decedent discussed Eid at every meeting prior to the execution of the will. Murch asked the decedent about his intentions as to Eid, and the decedent indicated "that he wanted to include her by giving her his 401k." Murch testified that the decedent "was very clear he wanted to leave everything else to [Reis] but was going to set aside that 401k for [Eid]."

Murch further testified that he and the decedent discussed the possibility that the decedent and Eid would marry and how that could impact estate planning. Murch asked the decedent if he wanted to make any changes to the plan, which was to leave everything but the retirement account to Reis, and the decedent indicated that he did not. Murch explained that "getting married would change things as far as a spouse goes and that spouses have certain rights and . . . he could take care of that with a prenup." Staff from Murch's law office sent the decedent an intake form for a prenuptial agreement, but the decedent did not return the form or ultimately execute a prenuptial agreement. On the day the decedent signed the will, Murch walked the decedent through the provisions and again asked if he wanted to include Eid or leave anything to anyone other than Reis, and the decedent indicated he did not.

The district court also heard testimony about the pickup truck. Eid testified that she requested the pickup truck from Reis after Eid's attorneys informed her that a surviving spouse was entitled to a vehicle from the estate. Reis believed that Eid "got her vehicle" because she received the Jetta the day after the decedent died. Reis ultimately sold the pickup truck and camper for $120,000 total. The decedent had intended for Reis to sell the pickup truck and use the proceeds to pay for new siding on their mother's house, but their mother passed away five weeks after the decedent.

Following the hearing, the district court denied Eid's request to be deemed an omitted spouse under Minn. Stat. § 524.2-301 and determined that Eid is not entitled to the pickup truck as exempt property under Minn. Stat. § 524.2-403(a)(2) because she received the Jetta.[2] Eid appeals.

DECISION

I. The district court did not err in denying Eid's request to be treated as an omitted spouse under Minn. Stat. § 524.2-301.

Eid first argues that the district court erred in denying her request to be treated as an omitted spouse from a premarital will under Minn. Stat. § 524.2-301. As relevant here, the statute provides:

> If a testator married after making a will and the spouse survives the testator, the surviving spouse shall receive a share of the estate of the testator equal in value to that which the

[2] The district court determined that Eid was entitled to $15,000 worth of personal property as exempt property under Minn. Stat. § 524.2-403(a)(1) and awarded her the cash equivalent because the property she requested had been sold. Reis does not challenge that determination, and the award under Minn. Stat. § 524.2-403(a)(1) is therefore not at issue on appeal.

> surviving spouse would have received if the testator had died intestate, unless:
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> . . . .
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> (4) the testator provided for the spouse by transfer outside the will and the intent that the transfer be in lieu of a testamentary provision is shown by the testator's written statements or may be reasonably inferred from the amount of the transfer or other evidence.

Minn. Stat. § 524.2-301(a)(4). Eid and the decedent married after the decedent executed his will, and Eid survived the decedent. Eid is therefore entitled to be treated as an omitted spouse under the statute unless the decedent provided for her by transfer outside of the will and intended for that transfer to "be in lieu of a testamentary provision" as demonstrated by extrinsic evidence. *Id.*

The district court explicitly found that the decedent provided for Eid by transfer outside of the will. This finding is supported by evidence in the record—specifically that the decedent made Eid the beneficiary of his retirement account worth approximately $90,000. *See In re Est. of Aspenson*, 470 N.W.2d 692, 695 (Minn. App. 1991) (determining that naming a spouse the beneficiary of the decedent's stock and life-insurance policy were transfers outside of a will for purposes of the omitted-spouse statute). Accordingly, the key question is whether the decedent intended "the transfer be in lieu of a testamentary provision." Minn. Stat. § 524.2-301(a)(4).

Intent is a question of fact, and a district court's finding of fact regrading intent is reviewed for clear error. *See Aspenson*, 470 N.W.2d at 695-96 (reviewing a district court's determination that a spouse intended transfers to be in lieu of a testamentary provision);

see also In re Est. of Hoigaard, 360 N.W.2d 360, 362 (Minn. App. 1984) ("The issue of intentional omission [from a will] is a question of fact for the trier of fact to determine."), *rev. denied* (Minn. Mar. 21, 1985). Here, the district court made three key findings regarding the decedent's intent in creating his will.

First, the district court credited Murch's testimony that the decedent consistently stated throughout the will-creation process that he intended to make Eid the beneficiary of his retirement account and leave everything else to Reis. Second, the district court found that "from the evidence provided, it appears as though Decedent's intent was that Decedent chose not to include Eid in his will, with the understanding that she would receive some additional property if the parties married." In making this finding the district court observed that "there is no evidence or testimony that following their marriage, Decedent did not want [Eid] to receive the benefits that Murch told him she would receive if they were married." Third, the district court found:

> Given the short term nature of the marriage, the lack of contribution by Eid to the assets of the estate outside of the homestead, the statements and clearly expressed intent of the Decedent, along with the value of the retirement account provided for Eid's benefit as compared to the value of the estate, the Court finds that the Decedent provided for Eid outside of the will but also expected that she would receive some additional property if they were to marry.

Eid argues that the district court erred "when it did not find any of the exceptions under Minn. Stat. § 524.2-301 applied but did not determine [Eid is] an omitted spouse." Eid's argument hinges on the district court's finding that the decedent "also expected that [Eid] would receive some additional property if they were to marry." She argues that because the district court found that the decedent expected Eid to receive additional property if they were to marry, the district court did not determine that the decedent intended for the transfer to be in lieu of a testamentary provision. We disagree.

As noted above, the district court credited Murch's testimony that the decedent consistently stated that his intent was to provide for Eid by naming her the beneficiary of his retirement account and leave everything else to Reis. Reis and Eid similarly testified as to the decedent's intent to leave everything to Reis and have Reis use the estate to provide for his mother. Murch and the decedent discussed the decedent's relationship with Eid and the decedent declined to provide for Eid in the will. This supports a determination that the decedent intended for the transfer to be in lieu of a testamentary provision.

Notably, Murch and the decedent also discussed what would happen if decedent and Eid were to marry, and Murch explained that a surviving spouse may be entitled to claim an elective share of the augmented estate and exempt property including $15,000 in household furnishings.[3] When the district court's order is read as a whole, it is clear that this is the "some additional property" that the district court found the decedent expected Eid would receive if they were to marry. Eid did not make a claim for an elective share of the augmented estate under Minn. Stat. § 524.2-202(a), but she did receive exempt property under Minn. Stat. § 524.2-403(a). Thus, Eid received some additional property due to her

[3] Murch advised the decedent about what property a surviving spouse may claim under North Dakota law because the decedent informed Murch that he was a resident of North Dakota. Minnesota law similarly provides that a surviving spouse is entitled to exempt property including up to $15,000 in personal property, Minn. Stat. § 524.2-403(a)(1), and may claim an elective share of the augmented estate, Minn. Stat. § 524.2-202(a) (2022).

marriage to the decedent, as the decedent intended. And contrary to Eid's argument, it is entirely consistent that the decedent could intend for the transfer outside of the will to be in lieu of a testamentary provision and that Eid would receive some additional property in the form of exempt property if they were to marry. On this record, the district court did not err in determining that Eid is not entitled to be treated as an omitted spouse under Minn. Stat. § 524.2-301(a).

II. The district court erred in determining that Eid is not entitled to the pickup truck under Minn. Stat. § 524.2-403.

Eid next argues that the district court erred in determining that she is not entitled to the pickup truck pursuant to Minn. Stat. § 524.2-403. That statute provides, in relevant part:

> (a) If there is a surviving spouse, then, in addition to the homestead and family allowance, the surviving spouse is entitled from the estate to:
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> (1) property not exceeding $15,000 in value in excess of any security interests therein, in household furniture, furnishings, appliances, and personal effects, subject to an award of sentimental value property under section 525.152 [2022]; and
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> (2) one automobile, if any, without regard to value.

Minn. Stat. § 524.2-403(a). The district court determined that Eid was entitled to $15,000 in cash from the estate in lieu of the personal property she selected—a fish house—because Reis had sold that property. But the district court determined that Eid was not entitled to the pickup truck as the "one automobile" under Minn. Stat. § 524.2-403(a)(2) based on the finding "that Decedent intended to provide a vehicle to Eid and did so with his transfer of the Jetta."

Eid argues that the district court erred in determining that the transfer of the Jetta satisfies the statutory provision allowing her one automobile. She argues that because she was added to the title of the Jetta, ownership transferred to her automatically upon the decedent's death and it did not become part of the decedent's estate. She argues that the plain language of the statute entitles her to an automobile "from the estate" and therefore the transfer of the Jetta does not satisfy the statutory allowance. She also argues that the district court erred in relying on the decedent's intent to provide her with the Jetta because the intent of the decedent is not relevant under the exempt-property statute. These arguments present questions of statutory interpretation, regarding which an appellate court reviews a district court's decision de novo. *In re Est. of Eckley*, 780 N.W.2d 407, 410 (Minn. App. 2010).

The Minnesota Uniform Probate Code defines "Estate" as "all of the property of the decedent, trust, or other person whose affairs are subject to this chapter as originally constituted and as it exists from time to time during administration." Minn. Stat. § 524.1-201(17) (2022). The decedent's property did not become subject to the Minnesota Uniform Probate Code until his death, so it follows that the estate as originally constituted would be the property disposed of pursuant to the Minnesota Uniform Probate Code. We agree with Eid that because she became the sole owner of the Jetta upon the decedent's death, the Jetta did not become part of the estate.

Additionally, we note that caselaw uses the terms "select" or "selection" when discussing how property that will go to the surviving spouse as exempt property is identified. *See Fischer v. Hintz*, 176 N.W. 177, 178 (Minn. 1920) (discussing the property a surviving spouse "is entitled to select as her statutory allowance"); *In re Est. of LeBrun*, 458 N.W.2d 139, 142 (Minn. App. 1990) (noting that a substantially similar predecessor statute entitled the surviving spouse to "a statutory selection" of exempt property). The statute also contains a provision prescribing how to proceed "[i]f encumbered chattels *are selected*," which further supports the proposition that the surviving spouse is entitled to select property from the estate to qualify as exempt property. Minn. Stat. § 524.2-403(a)(c) (emphasis added). Eid did not select the Jetta from the estate—she was the owner because she was on the title.

Finally, we agree that the district court erred by seemingly relying on the decedent's intent to provide Eid with the Jetta to conclude that the statutory provision was satisfied. In addressing Eid's assertion that she was entitled to the pickup truck, the district court stated:

> The Court considers that immediately prior to his death, Decedent transferred a vehicle to Eid by adding her as a joint owner days before his death. Eid argues that immediately upon Decedent's death, the Jetta became her sole property, as she was the surviving joint owner by operation of law. Therefore, Eid contends, the Jetta was not part of Decedent's estate, and she is entitled to the Ford truck, another vehicle remaining in the estate. *However, the Court finds that Decedent intended to provide a vehicle to Eid and did so with his transfer of the Jetta.*

(Emphasis added.) But as Eid notes, the intent of the decedent is irrelevant for purposes of the exempt-property allowance. The statute does not establish the duty of a spouse to provide a surviving spouse with an automobile; it establishes the right of a surviving spouse to select an automobile from the estate, regardless of value. And notably, the statute further provides that "[t]he rights granted by this section are in addition to any benefit or share passing to the surviving spouse . . . by the decedent's will." Minn. Stat. § 524.2-403(e). Thus, even if a decedent's will provided that a surviving spouse would receive an automobile, the spouse would still be entitled to select an automobile under the exempt-property statute.

On this record, we conclude that the district court erred in determining that Eid is not entitled to the pickup truck. The exempt-property statute allows a surviving spouse to select one automobile from the estate of the decedent, and Eid did not select the Jetta from the estate—ownership passed directly to her upon the decedent's death. Moreover, the fact that the decedent intended to provide her with the Jetta does not impact her entitlement to select one vehicle from the estate pursuant to the exempt-property statute. Accordingly, we reverse in part and remand to the district court for further proceedings on Eid's claim to the pickup truck.

Affirmed in part, reversed in part, and remanded.