

STATE OF RHODE ISLAND
PROVIDENCE, SC

PROBATE COURT OF THE
CITY OF PROVIDENCE

In Re Estate of Alfred Iannozzi:

No. 96- 476

Decision

This matter is before the Court as a result of a Petition brought by the Executor of the Estate of Alfred Iannozzi pursuant to Rhode Island General Laws 8-9-18 Judicial Aid in Taking Possession of Property of Estates. A hearing was held in the Probate Court on September 4, 1997 wherein Mollie Cornachione, a sister of the decedent, was examined under oath concerning the contents of a certain safe deposit box , said box being leased initially by the decedent from Fleet National Bank, Olneville Branch, Providence, R. I. ; Thereafter the parties submitted briefs to the court but requested that they be allowed to negotiate a settlement between the estate and Mrs. Cornachione before the court would render its decision. Subsequently, in April of 1998, the parties requested a decision as they were deadlocked on any settlement of the issues.

Relevant Facts and Issue

Decedent Alfred Iannozzi rented a safe deposit box from Fleet National Bank , Olneville Branch, Providence, R. I. . Sometime in late June, 1996, he contacted his sister Mollie and told her he wanted her to take him to Fleet Bank so that he could add her name to the Box as a Joint Holder of the box.¹ Each ,thereafter ,had unlimited access to the box. Mrs. Cornachione testified that while she did not know the contents of the box prior to the death of Mr. Iannozzi, nor did she examine the contents before he died, he stated to her that "it was for her".

Shortly thereafter, the decedent was hospitalized for a period of time and then took up residence at the Veteran's home in Bristol, R.I. where he expired in August of 1996. At the end of

¹ The Court requested the agreement for the rental of the box with Fleet subsequent to its rendering its decision. The agreement indicates that Mrs. Cornachione and the decedent held the box jointly with rights of survivorship.

the month, Mrs. Cornachione and her niece, Angela D'Iorio² met at the bank and examined the contents of the safe deposit box. It contained approximately \$9000.00 in cash; at that time, a discussion was held about splitting the money between Mrs. Cornachione and Mrs. D'Iorio's mother, which Mrs. Cornachione rejected.

In his brief to the Court on behalf of the Estate, the Executor avers in an affidavit that he had a conversation with the decedent in June of 1996 wherein Mr. Iannozzi requested that any money in the safe deposit box be used to provide the burial expenses for his sister Antoinette and that he did not put the Executor's mother-in-law's name on the rental agreement for the box because she was ill. His Will, allowed in this case, confirms ownership to any Joint Accounts in the surviving Joint Tenants.

The issue before this court is whether the money in the Fleet Bank Safe Deposit Box belongs to the estate, Mrs. Cornachione's name on the box rental being only a "convenience" for access to the box; or does the fact that she and the decedent were Joint Holders of the safe deposit box with survivorship rights vest the contents of the box in her by operation of law or in the alternative does the confirmation clause of Joint Accounts as belonging to the surviving Joint Tenant as set out in the decedent's Will vest title in her.

Application of Law

Cases like these involving joint ownership rights to personal property have in this jurisdiction and elsewhere resulted in unpredictable and inconsistent applications of the law. Those relying on the use of this valid probate substitute have indeed not always been able to decimate what results the establishment of joint accounts would accomplish. The results in this jurisdiction had been summarized in the case of Nocera v. Lembo 121 R.I. 216, 397 A2d524 which stated that at the creation of a joint account (for purposes of this decision , the hiring of and the contents of the safe deposit box are equated to a "joint account" in the more traditional way) with equal

² Angela D'Iorio is the daughter of a sister of the decedent and the spouse of the Executor.

access to all joint tenants while all were alive was prima facie evidence that the creator of the account intended an intervivos gift; that presumption could be rebutted by evidence that the name was added to the account for convenience to the original account Holder only and not to make a present gift or vest ownership to the survivor after the creator of the interest's death³. The Court had held that without the traditional common law elements of Joint Ownership (time, title, interest and possession) regardless of R.I. G.L. 1938, ch 43 (now G.L. 1956 § 34-3-1), joint ownership of personalty was indeed nearly impossible to prove⁴.

In April of 1998, the Rhode Island Supreme Court clearly and concisely solved this dilemma by adopting the "Ohio Rule"⁵ in Robinson v. Delfino 1998 WL 155728. When an owner establishes a joint account with rights of survivorship with another, a rebuttable presumption of an intent to make a gift of a joint interest arises. After the donor's death, only evidence of fraud, undue influence, or lack of capacity should be admissible to rebut the presumption. Absent any provision for rights of survivorship or to the survivor or the like in a joint account will, without a showing of mistake or fraud, be conclusive evidence of a failure to transfer ownership to the survivor.

Conclusion

I believe that this standard is applicable to all joint accounts at a bank or financial institution, including the leasing of safe deposit boxes . It also only stands to reason that if "access" to the box vests solely in a joint lessor, then so do the contents therein. In the case at hand, one only need look at the clear language contained on the Joint Leasing Agreement with Fleet which states that upon death of any one of us, the survivor or survivors only to have access thereto.⁶ There is no evidence of fraud, undue influence or lack of capacity of the decedent when the gift was made to Mrs. Cornachione, nor was there any suggestion of same. Clearly, the Rhode Island

³ Flynn v. Byrne 82 R.I. 48, 105 A2d 800

⁴ Millman v. Streeter 66 R.I. 341, 19A2d 254

⁵ Wright v. Bloom 69 Ohio St. 3d 596, 635 N.E. 2d 31

Supreme Court has by the Delfino case supra established an objective, rather than subjective standard to be applied in these types of cases. Before its adoption, this court would have had to engage in speculation and guessing as to the intent of the decedent relative to this transaction. That no longer being the law and applying the standards established by Delfino , I find that the cash in the safety deposit box is the property of Mrs. Cornachione. Counsel will forthwith prepare an appropriate order reflecting this decision.

ENTER:

J. Martinelli
6/2/98

BY ORDER:

[Signature]

⁶ Fleet Joint Tenant agreement for rental of safe deposit box.