STATE OF MINNESOTA
IN COURT OF APPEALS
A09-83

In the Matter of the Estate of:
Arthur Mathewson, Deceased.

Filed December 8, 2009
Reversed
Johnson, Judge

Ramsey County District Court
File No. PR-06-273

Robert J. Shane, 10 South Fifth Street, Suite 700, Minneapolis, MN 55402 (for appellant Dorothy Sledge)

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Considered and decided by Larkin, Presiding Judge; Halbrooks, Judge; and Johnson, Judge.

U N P U B L I S H E D O P I N I O N

JOHNSON, Judge

Near the end of his life, Arthur Mathewson made a gift to Dorothy Sledge by giving her a key to his safe-deposit box, which he said contained $41,000 in cash. In the probate action that followed his death, the district court initially determined that Sledge is entitled to the contents of the box. But after it was discovered that the box contained two certificates of deposit worth $122,000, the personal representative moved to modify or

vacate the first order. The district court granted the personal representative's motion and ruled that the certificates of deposit belong to the estate. This court reversed, holding that the district court erred in its second order because it had no basis for modifying or vacating its first order. *In re Estate of Mathewson*, No. A07-1230, 2008 WL 2885743, at *7 (Minn. App. July 29, 2008).

Following this court's decision, the personal representative sought a final order providing that, among other things, the two certificates of deposit are property of the estate. The district court overruled Sledge's objection and issued a final order awarding the proceeds of the two certificates of deposit to the estate. In this appeal, Sledge argues that the final order of the district court,[1] which denies her the proceeds of the certificates of deposit, is erroneous due to the doctrine of law of the case. We agree and, therefore, reverse.

FACTS

Arthur Mathewson died of leukemia on May 16, 2005, at the age of 81. Ten days before his death, Dorothy Sledge, a long-time friend, visited him in the hospital. During their visit, Mathewson asked Sledge to retrieve his wallet from a drawer. Inside the wallet was a key to Mathewson's safe-deposit box, which he gave to Sledge. Mathewson informed Sledge that the box contained $41,000 and stated that, if he died, she should

[1]Throughout this opinion, we refer to the district court in the institutional sense. We note that, at each stage of district court proceedings, a referee held hearings and prepared orders containing findings of fact and conclusions of law, which were recommended to a district court judge. We further note that three different district court judges approved the three orders.

contact his attorney to say that she had the key to the safe-deposit box and that he had given the contents to her.

Securian Trust Company, N.A., the respondent in this appeal, is the personal representative of Mathewson's estate. Securian filed a petition for formal probate of the estate in March 2006. In August 2006, Sledge presented a claim for the contents of Mathewson's safe-deposit box. Securian denied the claim without explanation. The matter was submitted to the district court on Sledge's petition to allow the claim. Securian opposed the petition on the grounds that it was untimely and that Mathewson had not made a gift to Sledge. In December 2006, after an evidentiary hearing, the district court found that Mathewson "gifted to [Sledge] the contents of his safety deposit box at U.S. Bank." The district court thus granted Sledge's petition and ordered Securian to "facilitate the opening of decedent's safety deposit box at US Bank in St. Paul to allow [Sledge] to remove and retain all contents of the safety deposit box." The district court also ordered U.S. Bank "to inventory the contents of the safety deposit box prior to delivery of the contents to" Sledge.

When the safe-deposit box was inventoried, it was discovered that the box contained $5,600 in cash and coins and two certificates of deposit, one valued at $100,000 and another valued at $22,000. Prior to the expiration of the deadline for creditors' claims, Securian had redeemed the two certificates of deposit, without actual possession of them.

Following the discovery of the certificates, Securian filed a motion for a new trial or amended findings and conclusions pursuant to rule 59 of the Minnesota Rules of Civil

Procedure or, in the alternative, for relief pursuant to rule 60. The district court granted Securian's motion and modified its previous order. The district court reasoned that the certificates of deposit constituted newly discovered evidence and that the "evidence does not support a finding that the decedent intended to gift the certificates of deposit to Ms. Sledge." Accordingly, the district court concluded that the proceeds from the certificates of deposit "are property of decedent's estate and shall be retained and administered by the personal representative" and that Sledge "shall retain all other contents of decedent's safety deposit box."

Sledge appealed the district court's second order, and this court reversed on the ground that the district court abused its discretion by modifying its first order. *Mathewson*, 2008 WL 2885743, at *7. We reasoned that Securian was not entitled to relief under rule 59 because the certificates of deposit were not "newly discovered evidence." *Id.* at *4-5. We noted that the safe-deposit box was not inventoried until "19 months after [Mathewson's] death, 9 months after [Securian's] appointment as personal representative, and more than 4 months after learning of Sledge's claim to the contents." *Id.* at *5. We further reasoned that Securian was not entitled to relief under rule 60 because it failed to show a change in circumstances. *Id.* at *7 (citing Minn. R. Civ. P. 60.02(e)). We concluded by stating that Securian had not identified any proper grounds for a modification of the district court's first order. *Id.*

In September 2008, Securian petitioned the district court for an order allowing a final account and the settling and distribution of the estate. The petition included a request that the district court issue an order "[d]etermining that the Estate is entitled to

the assets reflected by the Certificates of Deposit held in the Decedent's safety deposit box and that these assets are properly included in the Estate Inventory." Sledge filed a written objection to the petition, arguing that she was entitled to the proceeds from the certificates of deposit in light of this court's decision in the prior appeal. The district court issued an order granting Securian's petition and denying Sledge's objection. The district court reiterated the conclusion it previously reached in the second order, that the "evidence does not support any intent of the decedent to gift the proceeds of the two certificates of deposit to Dorothy E. Sledge." Sledge appeals.

D E C I S I O N

Sledge argues that the district court erred by concluding that the proceeds of the two certificates of deposit are property of the estate because such a conclusion is contrary to this court's decision in the prior appeal, which is the law of the case.

The doctrine of law of the case is "a rule of practice that once an issue is considered and adjudicated, that issue should not be reexamined in that court or any lower court throughout the case." *State v. Dahlin*, 753 N.W.2d 300, 305 n.7 (Minn. 2008) (quotation omitted). The doctrine "provides that 'when a court decides upon a rule of law, that decision should continue to govern the *same issues* in subsequent stages in the *same case*.'" *In re Welfare of M.D.O.*, 462 N.W.2d 370, 375 (Minn. 1990) (quoting *Arizona v. California*, 460 U.S. 605, 618, 103 S. Ct. 1382, 1391 (1983)). If an issue has been decided in a prior stage such that the law-of-the-case doctrine applies, the issue "may not be relitigated in the trial court or re-examined in a second appeal." *Sylvester*

Bros. Dev. Co. v. Great Cent. Ins. Co., 503 N.W.2d 793, 795 (Minn. App. 1993), *review denied* (Minn. Sept. 30, 1993).

These general principles are not in dispute. What is in dispute is whether the district court, in its final order, reconsidered an issue that was decided by this court's prior opinion. Sledge contends that this court previously decided that she is entitled to the proceeds of the two certificates of deposit. In response, Securian contends that "the issue of entitlement to the proceeds of the certificates of deposit remained for and was properly determined by the district court by its November 24, 2008 order" because this court's prior decision did not address the issue. Thus, the central question for this appeal is whether the district court was permitted, following this court's prior opinion, to issue further orders concerning who is entitled to the proceeds of the two certificates of deposit.

As a general rule, "the scope of the finality of an appellate decision depends on what the court intends to be final, and this is determined by what the court's decision says." *Mattson v. Underwriters at Lloyds of London*, 414 N.W.2d 717, 720 (Minn. 1987). In other words, "[t]he effect of the reversal of a judgment depends upon the ground upon which it is based, as expressed in the decision reversing it." *Chicago Great W. R.R. Co. v. Zahner*, 149 Minn. 27, 29, 182 N.W. 904, 904 (1921). Generally, an appellate court decision modifying, affirming, or reversing a district court's decision is intended "to dispose of the case as completely and finally as possible." *Mattson*, 414 N.W.2d at 720. "If complete finality cannot be accomplished . . . the appellate court will

ordinarily so indicate, usually by a remand with directions or a mandate which the trial court must follow." *Id.*

In our prior opinion, we reversed the district court's second order without any remand or any other direction for further action by the district court. That fact alone is a strong indication that we intended to dispose of the dispute between these parties with finality. *See id.* A closer review of our prior opinion and the underlying district court orders lends further support to Sledge's argument. The district court's second order modified its first order, which had determined that Sledge is entitled to "the contents of [Mathewson's] safety deposit box at U.S. Bank." In reversing the district court's second order, we reasoned that none of the bases for modification that were cited by the district court or urged by Securian on appeal were proper bases for modification. *Mathewson*, 2008 WL 2885743, at *7. Securian attempts to argue that we "did not address the issue of ownership of the certificates of deposit or entitlement to the proceeds resulting from the certificates." But by reversing the district court's second order, which modified its first order, we effectively reinstated the first order, which had determined that Sledge is entitled to the contents of the safe-deposit box.

At oral argument, Securian argued that, even if the district court was not authorized to modify the first order pursuant to rules 59 or 60, it was authorized to do so in its final order pursuant to the following provision of the probate code: "The court has full power to make orders, judgments and decrees and take all other action necessary and proper to administer justice in the matters which come before it." Minn. Stat. § 524.1-302(b) (2008). This statute never has been interpreted to authorize a district court to

reconsider settled issues in contravention of the law-of-the-case doctrine, and we see nothing in its text that would support such an interpretation. Securian also argues that, in a probate proceeding, a district court possesses inherent authority to reconsider any issues prior to issuing a final order. Again, such a proposition is inconsistent with the law-of-the-case doctrine. Furthermore, Securian's arguments are inconsistent with its earlier motion, which gave rise to the district court's second order; that motion was based on rules 59 and 60 of the Minnesota Rules of Civil Procedure, not on the provisions of law on which it now relies.

Securian also contends that Sledge waived her objection to the district court's reconsideration of her claim to the proceeds of the two certificates of deposit. Specifically, Securian contends that Sledge consented to the district court's reconsideration of the issue at the time of the final order. But Sledge plainly objected to the district court's reconsideration of the question whether Mathewson gifted her the certificates of deposit. She did so in writing in response to Securian's petition for a final order. In addition, Sledge's attorney argued orally that, as a consequence of this court's prior decision, the district court's first order was reinstated. Sledge also urged the district court to resolve the issue by finding that Mathewson intended to gift the certificates of deposit to her, but that argument was presented in the alternative, after it became apparent that the district court had overruled Sledge's objection and was reconsidering the merits of the issue. Thus, Sledge did not waive the argument that is at the core of her appeal.

In sum, the district court erred in its final order by denying Sledge's objection to Securian's petition and determining that the proceeds of the two certificates of deposit are

property of the estate. This court previously determined that there were no proper grounds to modify the district court's first order, in which it determined that Mathewson gifted to Sledge all of the contents of his safe-deposit box. Thus, the district court's order filed December 5, 2006, reflects the law of the case with respect to the proceeds of the two certificates of deposit and is binding on the parties. Pursuant to that order, Sledge is entitled to the proceeds of the two certificates of deposit that were found in Mathewson's safe-deposit box upon its being inventoried. Absent further review of this opinion by the supreme court, the district court need not and may not reconsider the issue of the proceeds of the two certificates of deposit, nor may it conduct any further proceedings affecting its original determination of that issue.

Reversed.