goulston&storrs

Probate & Fiduciary Litigation Newsletter - September 2020

September 2, 2020

Lose a Diamond Ring – Pay the Estate

Matter of Steinman, 2020 WL 2170757 (2nd Dep't May 6, 2020)

A Floridian borrowed an expensive diamond ring from a New Yorker, while in New York State, and subsequently lost the ring. When the New Yorker who lent the ring passed away, her executor petitioned pursuant to New York Surrogate's Court Procedure Act (SCPA) § 2013 for an order compelling the Floridian to return the ring, or its value, to the estate. Surrogate's Court, noting the undisputed fact that the ring had been lost, found the ring had a value of $169,471.65 and directed the Floridian to deliver that sum to the decedent's estate. The Floridian contested the Surrogate's Court's personal jurisdiction over her. The Surrogate's Court found personal jurisdiction over her pursuant to SCPA §§ 307 and 309, which concern service of process, and the Floridian appealed.

In Matter of Steinman, 2020 WL 2170757 (2nd Dep't May 6, 2020), the Appellate Division affirmed personal jurisdiction over the Floridian, but not on the grounds invoked by the Surrogate's Court. Finding that the Surrogate "improperly relied on" SCPA §§ 307 and 309 for the purpose of determining personal jurisdiction, the Appellate Division instead looked more broadly at SCPA 210, under which the Surrogate's Court "may exercise personal jurisdiction over any non-domiciliary ... as to any matter within the subject matter jurisdiction of the court arising from any act or omission of the non-domiciliary within the state." SCPA § 210[a][2]. "Here, the record evidence established that the ring is an asset that belongs to the decedent's estate, over which the Surrogate's Court has subject matter jurisdiction (*see* N.Y. Const art VI, § 12[d]; SCPA 201[3]). It is undisputed that [the Floridian] borrowed and then lost the ring while she was in New York State …." Finding that this also comported with federal constitutional due process requirements, the Appellate Division affirmed the order compelling the Floridian to return to the decedent's estate the value of the diamond ring.

Takeaway: Non-New Yorkers should not assume they are immune from Surrogate's Court jurisdiction as to their acts or omissions in New York that affect the estate of a New York decedent.

Land Bequeathed for "Church Purposes" Authorized For Sale

Edgartown Federated Church v. Soc'y for the Preservation of New England Antiquities, Inc., 97 Mass. App. Ct. 23 (2020)

In Edgartown Federated Church v. Soc'y for the Preservation of New England Antiquities, the Edgartown Federated Church (the "Church") brought an action seeking declarations that it owned a

property bequeathed to it in 1956 on the condition that the property be used for "church purposes" and that it was authorized to sell the property and use the proceeds for the Church. 97 Mass. App. Ct. 23, (2020). Importantly, the will did not define "church purposes." The Society for the Preservation of New England Antiquities (d/b/a Historic New England) ("HNE") had a contingent interest in the property should it not be used for church purposes. As the Appeals Court explained, "[o]ur resolution of this appeal requires us to consider the interplay between the terms of a testamentary gift of real property to a charitable entity, the applicable rule against perpetuities, and other provisions of the Massachusetts Uniform Probate Code." The Appeals Court upheld the Superior Court's holding that the Church had the right to sell the property and devote the proceeds to the Church.

In reaching its holding, the Appeals Court reasoned that because HNE had failed to record its interest pursuant to a 1961 statute it had forfeited its interest in the property. The 1961 statute eliminated the charitable exemption to the Massachusetts rule against perpetuities requiring contingent interests to vest within 30 years but provided that contingent interests that existed prior to the statute could be preserved through recording prior to 1964. Despite never recording its interest HNE argued that a provision of the Massachusetts Uniform Statutory Rule Against Perpetuities, enacted by the Legislature in 2008 and provided in part that the holder of a "nonvested property interests" that existed before the effective date of Massachusetts Uniform Statutory Rule Against Perpetuities, could petition the court to "reform the disposition in the manner that most closely approximates the transferor's manifested plan of distribution." The Appeals Court noted that the statute referenced by HNE had not repealed the 1961 statute requiring recording and that to the extent a conflict existed between the statutes the 1961 statue should control because it "is tailored specifically to apply to the unique interest in land at issue here… Generally, the more specific statute controls, and we see no reason to deviate from that principle here."

Takeaway: Charities that received contingent interests in donations in the past should confirm that they recorded their interest.