

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

Christina A. Snyder et al.,	:	
	:	
Plaintiffs-Appellants,	:	Nos. 10AP-535
v.	:	and 10AP-664
	:	(C.P.C. No. 09CVH06-9475)
Kristin Lee Anderson et al.,	:	
	:	(REGULAR CALENDAR)
Defendants-Appellees.	:	
	:	

D E C I S I O N

Rendered on February 3, 2011

Kinsley F. Nyce, for appellants.

Morris, Starkey & Waid, L.L.C. and *David H. Starkey*, for
appellee Kristin Lee Anderson et al.

Renae Hermann, pro hac vice, for appellee Reassure
America Life Ins. Co.

APPEALS from the Franklin County Court of Common Pleas

TYACK, J.

{¶1} This set of appeals concerns a dispute over proceeds from a deceased's \$750,000 insurance policy on the life of Eric A. Snyder. Appellee Kristin Lee Anderson is Snyder's widow, and also the administrator of his estate. Appellant Christina A. Snyder is the deceased's ex-wife, who also gave birth to his three daughters. The trial court granted summary judgment, dividing the policy proceeds between Ms. Anderson, and the deceased's three daughters. Ms. Snyder is arguing that the deceased's 2005 designation

of Ms. Anderson as the policy's sole primary beneficiary was invalid because of the Snyders' 2001 divorce decree. We disagree.

{¶2} Appellants' counsel has presented five assignments of error for our review:

I. First Assignment of Error

The Trial Court erred by failing to honor and then to enforce the Agreed Judgment Entry and Order of the Franklin County Court of Common Pleas, Domestic Relations Division. It is undisputed and stipulated that Appellants and third party decedent entered into an Agreed Judgment Entry and Order but the Trial Court refused to grant Appellants' Motion for receipt of all \$ 750,000 in proceeds of a life insurance policy upon the life of the deceased third party, contrary to the clear requirements of that Agreed Judgment Entry and Order.

The Domestic Order requires by clear unambiguous language that Appellants collectively be the sole Beneficiaries of the relevant insurance policy and that under the circumstances before this Court requires that they receive all \$ 750,000 of the proceeds of the policy.

This First assignment of error embraces the need for the Common Pleas Court (General Division) to afford the Common Pleas Court, (Domestic Relations Division, and Judge Dana Puisse) Order, its full faith and credit as an equal sister Ohio Court.

II. Second Assignment of Error

The Trial Court erred in Ordering the distribution of only \$ 300,000 (the \$ 300,000 amount is agreed upon and stipulated by Appellee's Anderson to be provided the Appellant minors, directly by Appellee, Reassure America Life Insurance Co. as insurance proceeds) of the \$ 750,000 to the three minor Appellant children, providing instead the remaining balance of \$ 450,000 to a non party to the Domestic Court Order, i.e. Appellee Anderson.

III. Third Assignment of Error

The Trial Court erred by replacing a decision that only the decedent was entitled and required to make; which by

decedents having not compliantly made, the Order of the Domestic Division makes for him. Decedent was Ordered to make beneficiary designations pursuant to the Domestic Court Order, which Order required decedent name Appellants as Beneficiaries and further the Order required decedent to determine an amount of the proceeds of a life insurance policy after having named Appellants as Beneficiaries in an undetermined dollar amount of life insurance policy coverage that had to be at or above the Orders clear requirement "in a minimum amount of \$300,000" with the term minimum requiring decedent to determine the exact amount of benefit. The Trial Court erred in determining the decedent's intentions to limit the amount for his children to the minimum of \$ 300,000 when no such intentions were made by decedent before he committed suicide and no evidence of his intentions were before the Trial Court.

IV. Fourth Assignment of Error

The Trial Court erred by its decision, allowing the decedent to have acted deceptively and deliberately in contravention of the Order of the Domestic Relations Division when it is factually stipulated and agreed that decedent never complied with the Domestic Relations Division Order, a matter that if discovered during decedents life would have resulted in a (no brainer) contempt finding, resulting in the Domestic Relations Division Court removal of non compliant beneficiaries and further requiring decedent's naming of compliant insurance Beneficiaries and also requiring decedent to set complying benefit amounts. Decedent would have been required to have made those determinations as required by the Court's Order, but since decedent did not comply all policy amounts are vested to Appellants on December 5[,] 2000. The Trial Court erred in divi[d]ing, with no basis in fact and no evidence before the Trial Court, what the Beneficiary desires of the decedent would have been had he complied with the Order.

V. Fifth Assignment of Error

The Trial Court has erred in not resolving all matters in dispute, specifically in not designating the party and or parties, as recipient of the interest that has accrued upon the relevant life insurance policy since the date of death through the date of distribution to the beneficiaries.

{¶3} We have construed the assignments of error as follows, in an effort to conform them to App.R. 16 and 19, as well as Loc.R. 1(D):

The trial court erred by failing to honor and enforce the agreed judgment entry and order of the Franklin County Court of Common Pleas, Division of Domestic Relations.

The trial court erred in ordering distribution of only the minimum amount of \$300,000 of the life insurance proceeds instead of the total of \$750,000 of life insurance proceeds to the three children of Eric Snyder in contravention of the domestic relations court's order.

The trial court erred by replacing a decision that only the decedent was entitled and required to make.

The trial court erred by its decision allowing the decedent to have acted deceptively and deliberately in contravention of the domestic relations court's order.

The trial court has erred in not resolving all matters in dispute, specifically in not designating the party and or parties, to receive the interest that has accrued upon the relevant life insurance policy since the date of death through the date of distribution.

{¶4} We review a trial court's decision granting summary judgment de novo, using the same legal standard that the trial court used, as provided in Civ.R. 56: When viewing the evidence in a light most favorable to the nonmoving party, a trial court may grant summary judgment when: (1) no genuine issue of material fact exists; (2) the moving party is entitled to judgment as a matter of law; and (3) reasonable minds can come to but one conclusion—that conclusion being adverse to the nonmoving party. See, e.g., *Boroff v. Meijer Stores Ltd. Partnership*, 10th Dist. No. 06AP-1150, 2007-Ohio-1495, ¶6 (citing *Burstion v. Chong Hadaway, Inc.* (Mar. 2, 2000), 10th Dist. No. 99AP-701, 2000 WL 234323, at *1; *Zivich v. Mentor Soccer Club, Inc.*, 82 Ohio St.3d 367, 369-70, 1998-Ohio-389). Summary judgment is a litigation tool used to dispose of

cases without a trial, when the evidence or material facts are largely not in dispute. The rationale is that when there are no facts at issue, there is no need for a trial. See *id.*

{¶5} The facts in this case are virtually undisputed. Christina and Eric Snyder were married in 1990. In 1999, Eric obtained the life insurance policy in question, for \$750,000. He named his father as the primary beneficiary, and designated his three daughters as contingent beneficiaries.¹ On March 21, 2001, the Franklin County Court of Common Pleas, Division of Domestic Relations, entered an agreed judgment entry and decree of divorce, which officially ended the Snyders' marriage. In the divorce decree, the domestic relations court ordered Eric to pay spousal support to Christina for three years. To secure the spousal support obligation, the court also required Eric to maintain a life insurance policy of at least \$300,000, naming Christina and their three children as the primary beneficiaries.² "Upon termination of his spousal support obligation, [Eric Snyder] may take [Ms. Snyder] off as a beneficiary, leaving solely the children as beneficiaries." (Agreed Judgment Entry Decree of Divorce, at 5.)

{¶6} The record shows that Eric did not make any changes to his life insurance policy pursuant to the court's order, which left the existing beneficiary designation(s) intact. Eric's spousal support obligation terminated around February 2004. On April 26, 2005, Eric changed the primary beneficiary designation to Ms. Anderson, his new wife. The children remained as contingent beneficiaries. In March 2009, Eric died.

{¶7} Ms. Snyder filed the instant case against Ms. Anderson, and Eric's estate. Ms. Snyder's argument is that by failing to designate her and her daughters as the policy's primary beneficiaries, Eric violated the domestic relations court's order, and that

¹ Contingent beneficiaries only receive proceeds of an insurance policy if the primary beneficiary "is unable or unwilling to take the gift." See Black's Law Dictionary (8th ed.2004).

² See, e.g., *Thomas v. Studley* (1989), 59 Ohio App.3d 76, 80 ("Under some circumstances, a court may order a spouse to provide life insurance as security for child support obligations.") (citing *In re Estate of Monreal* (1985), 422 Mich. 704, 707).

because he violated that order, she and her children should be entitled to 100 percent of the proceeds from the policy.

{¶8} Eric was arguably in contempt of court for failing to comply with the domestic relations court's order. His contempt has no bearing on the distribution of Eric's estate however. Motions for contempt are within the sound discretion of the trial court, and in all contempt proceedings, the court must conduct a hearing. See generally R.C. 2707.05(A). Failure to do so is a per se violation of the accused's procedural due process rights. See, e.g., *Potchen v. Kelly* (1998), 130 Ohio App.3d 21. Eric's arguable contempt, however, does not change the terms of the divorce decree or entitle his children to funds over and above the sums awarded in the decree.

{¶9} Appellants' counsel argues that all four appellants' interest in the insurance policy were vested on December 5, 2000. (Appellants' brief, at 5.) While that may have been the date that the policy itself vested, appellants' interests could not have vested at that time because they were neither designated beneficiaries, nor was the divorce decree—which declared them beneficiaries—yet in effect. Furthermore, a beneficiary's rights in proceeds to an insurance policy cannot vest until occurrence of the condition precedent to payout, which, here, was the death of the policyholder. See, e.g., *Katz v. Ohio Natl. Bank* (1934), 127 Ohio St. 531, 538 ("Here was but an expectant beneficiary, whose rights did not vest until the death of the insured, and there was no foundation upon which to build a claim of the kind asserted."). Prior to the policyholder's death, any beneficiary's interest is merely executory, because until the policyholder dies, a number of circumstances could occur, any one of which might extinguish the expectant beneficiary's interest altogether. See generally Annotation, Declaratory or Advisory Relief Respecting Future Interest (1948), 174 A.L.R. 880. For example, the policy could expire prior to the policyholder's death (if a term policy), the policyholder could change the beneficiary designation on the policy, or the expectant beneficiary could pre-decease the policyholder.

{¶10} Ms. Snyder's entire case relies upon her mistaken belief that she had a vested interest in the proceeds from her ex-husband's insurance policy. If her interest was in fact lawfully vested, no court would be able to take that away. The outcome here could be different if Eric had died while the spousal support obligation was still in effect. However, after his spousal support obligation terminated, Eric was free to designate any person of his choosing as the beneficiary of any life insurance proceeds above and beyond \$300,000, which the court had assigned to his three daughters. Even though the deceased ignored the domestic relations court's order with respect to designating his daughters as primary beneficiaries of \$300,000 from the policy, the trial court in this case exercised its equitable powers to enforce the domestic court's original order and award the sum of \$300,000 to the daughters. Kristin Anderson does not dispute that award.

{¶11} Our discussion, thus, disposes of each quasi-assignment of error.

{¶12} We overrule the first and second assignments of error because the trial court did not fail to enforce the decedent's divorce decree. In fact, the outcome below represents the exact outcome of the case in the event that the decedent had fulfilled his obligations under the divorce decree (i.e., the Snyder daughters collectively take \$300,000 from the decedent's life insurance policy) to the ex-wife, Christina Snyder at the time of the divorce. The domestic relations court did not award any of the additional \$450,000. If the decedent would have passed away prior to February 2004, all four appellants would still have only been entitled to \$300,000 from the policy.

{¶13} We overrule the third assignment of error.

{¶14} We overrule the fourth assignment of error. This court has no jurisdiction to hold the deceased in contempt when appellants did not file such a motion with the trial court. The trial court likewise had no such power.

{¶15} The trial court exercised its equitable powers to enforce the order in a manner that is exactly the same as though the decedent had strictly complied with the terms of the divorce decree.

{¶16} With regard to the fifth assignment of error, there is nothing in the decision below that suggests that the recipients of the policy proceeds will receive anything other than an equitable distribution of the accrued interest, if any, on those proceeds. Additionally, appellants have failed to show that they preserved this issue for appeal. Appellant's fifth assignment of error is overruled.

{¶17} Having overruled all five assignments of error, we affirm the judgments of the Franklin County Court of Common Pleas.

Judgments affirmed.

BROWN and SADLER, JJ., concur.
