Filed 6/12/12 In re Trust for Schockner CA2/7

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In the Matter of THE IRREVOCABLE TRUST FOR MANFRED SCHOCKNER etc.	B235410 (Los Angeles County Super. Ct. No. NP013403)
FARMERS AND MERCHANTS TRUST COMPANY, Plaintiff and Respondent, v. JP MORGAN CHASE BANK, N A, Defendant; MANFRED SCHOCKNER, Appellant.	

APPEAL from an order of the Superior Court of Los Angeles County, Roy L. Paul, Judge. Affirmed.

Lionel Albanese for Appellant.

No Appearance for Defendant.

Newell, Curtis, Nelson & Schuur, Gregory J. Burnight; Murphy Rosen Meylan & Davitt and David E. Rosen for Plaintiff and Respondent.

INTRODUCTION

Manfred Schockner appeals from an order determining the ownership interest in a bank account of The Irrevocable Trust for Manfred Schockner and directing the transfer of the account to Farmers and Merchants Trust Company as trustee of the trust. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Manfred Schockner's (Manfred) wife, Lynn Schockner (Lynn), was murdered in November 2004. Manfred was convicted of first degree murder in Lynn's death and is serving a life sentence in prison. Manfred and Lynn had a son, Charles, who was a minor at the time of the murder.

After Manfred's conviction, there was much litigation over the disposition of the marital and non-marital assets. Ultimately, there was a settlement agreement and a December 21, 2006 court order placing the assets in an irrevocable trust.

Section 32 of the settlement agreement directed the disposition of "[t]he remaining assets of Manfred and Lynn," specifically their Wachovia account. Section 32 also provided in subsection (v): "The parties agree that if any property or assets of any type, owned by either Manfred or Lynn, as community property or separate property, are discovered after this settlement agreement is signed, those assets shall pass pursuant to this Section 32."

The December 21, 2006 order approving first and final account (*Guardianship of the Estate of Charles Schockner* (Super. Ct. L.A. County, 2006, No. NP011040)) provided in section f that the Wachovia account would be transferred to Farmers and Merchants Trust Company (Farmers), as trustee of the irrevocable trust. It provided in section g that "[a]ll other assets . . . will be transferred to [Farmers] who will comply with the terms of the Settlement Agreement" in the manner specified in the order. It also provided in section h that "[i]f any property or assets of any type, owned by either Manfred Schockner or Lynn Schockner, as community property or separate property, are discovered after this Order is executed, those assets shall pass pursuant to Section 32 of the Settlement Agreement."

Thereafter, Farmers learned of the existence of various accounts in the names of Manfred and Lynn which were not identified in the settlement agreement and order, and specifically an account in the names of Manfred or Lynn at JP Morgan Chase Bank NA (Chase). Farmers petitioned the court to have the funds in the Chase account transferred to the irrevocable trust.

Manfred opposed the petition on the grounds the funds in the Chase account were not "after acquired property" within the meaning of section 32(v)[1] of the settlement agreement; and the funds held in the Chase account were not subject to the settlement agreement, and Lynn's estate waived any claim to them under section 15 of the agreement.[2]

In reply, Farmers argued that paragraph 32(v) applied to omitted assets, which the Chase accounts were, not after acquired assets. Farmers also argued that section 15 of the settlement agreement did not apply to it.

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[1] Section 32(v) does not contain the term "after acquired property" but refers to property "discovered after this settlement agreement is signed."

[2] Section 15 provided that Mark Jicha, Lynn's brother, "as an individual, residual beneficiary of the Trust, as guardian of Charles's person and estate, as executor of Lynn's estate, and as successor trustee of the Trust, does hereby waive any and all claims which he may have against Manfred . . . ."

The trial court, after argument on the matter, ordered that the funds in the Chase account be transferred to Farmers.

DISCUSSION

Manfred contends that the trial court erred in interpreting section 32(v) "as applying to omitted assets and unenumerated assets, as well as after discovered property," in that "[t]here is no 'omitted assets' or 'unenumerated assets' clause in the [settlement agreement], most especially not in Section 32(v), which addresses only assets discovered after the Agreement was signed." Manfred additionally contends there is nothing in the settlement agreement and no extrinsic evidence to support a finding that the Chase account was "after discovered property."

Farmers counters that interpretation of the settlement agreement is not the issue before us. Rather, we are concerned with the December 21, 2006 order which incorporated the settlement agreement. The order, Farmers claims, clearly applies to the Chase account. We agree.

It was the December 21, 2006 order which interpreted and gave effect to the settlement agreement, and which created the irrevocable trust. Therefore, the determination as to the ownership of the Chase account is governed by the order.

An order is to be interpreted like any other document. (Cf. *Flynn v. Flynn* (1954) 42 Cal.2d 55, 60; *Verdier v. Verdier* (1953) 121 Cal.App.2d 190, 193.) It must be interpreted to give effect to the intent of the drafter as it existed at the time, insofar as that intent can be ascertained and is lawful. (See Civ. Code, § 1636; *Ticor Title Ins. Co. v. Rancho Santa Fe Assn.* (1986) 177 Cal.App.3d 726, 730; cf. *Healy Tibbitts Constr. Co. v. Employers' Surplus Lines Ins. Co.* (1977) 72 Cal.App.3d 741, 748.)

In interpreting an order, the whole of the order is to be interpreted together, "so as to give effect to every part, if reasonably practicable, each clause helping to interpret the other." (Civ. Code, § 1641; *People ex rel. Lockyer v. R.J. Reynolds Tobacco Co.* (2003) 107 Cal.App.4th 516, 526.) Particular clauses are subordinate to the general

intent of the agreement. (Civ. Code, § 1650.) The order may be explained "by reference to the circumstances under which it was made, and the matter to which it relates." (*Id.*, § 1647.)

The provisions of the order make it clear that the intent was to direct the disposition of all assets of Manfred and Lynn, both community and separate. Sections g and h make that clear, by referring to "[a]ll other assets" "any property or assets of any type, owned by either Manfred Schockner or Lynn Schockner, as community property or separate property, . . . discovered after this Order is executed."

The term "[a]ll other assets" in section g reasonably may be interpreted to refer to "'omitted assets' or 'unenumerated assets.'" Section h clearly refers to "after discovered property." Therefore, whether the Chase account was known at the time the order was executed and omitted from the order, or whether it was discovered after the execution of the order, its disposition was covered by the order. Accordingly, the trial court did not err in ordering the Chase account transferred to Farmers consistent with section 32 of the settlement agreement, as effected by sections g and h of the order.

DISPOSITION

The order is affirmed. Farmers is to recover its costs on appeal.

JACKSON, J.

We concur:

WOODS, Acting P. J.

ZELON, J.