

A brother and sister owned property as joint tenants. A two-family house was situated on the property. The brother lived in one of the two apartments and rented the other apartment to a friend. The brother got in a fight with the friend and injured him. The friend obtained and properly filed a judgment for \$10,000 against the brother.

The statute in the jurisdiction reads: "Any judgment properly filed shall, for ten years from filing, be a lien on the real property then owned or subsequently acquired by any person against whom the judgment is rendered."

The sister, who lived in a distant city, knew nothing of the friend's judgment. Before the friend took any further action, the brother died. The common law joint tenancy is unmodified by statute. The sister then learned the facts and brought an appropriate action against the friend to quiet title to the property.

Does the friend have an enforceable judgment lien on the property?

- A. No, because the brother's death terminated the interest to which the friend's lien attached.
- B. No, because the sister had no actual notice of the friend's judgment until after the brother's death.
- C. Yes, because the friend was a tenant of both the brother and sister at the time of the judgment.
- D. Yes, but only against the brother's undivided one-half interest in the property, because the friend's judgment was filed prior to the brother's death.

Explanation:

A **joint tenancy** is a type of **concurrent estate** in which each tenant has an equal and undivided interest in the property with the **right of survivorship**. Under the common law (and in most jurisdictions), the creation and continuation of a joint tenancy depends on the **coexistence of four unities** (PITT):

Possession – tenants share an equal right to possess or use the property

Interest – tenants each have an equal interest in the property

Time – property interests simultaneously vest in all tenants

Title – property interests received in the same instrument of conveyance

A **judgment lien** on a joint tenant's interest **does not disrupt** the four unities because it merely secures payment of a money judgment (ie, the tenancy remains intact). But a **forced sale** of the encumbered property (eg, foreclosure) **does sever** the tenancy—and creates a tenancy in common—since the sale disrupts the unities of time and title. However, a joint tenant's property interest disappears upon his/her death and is absorbed by the surviving tenants due to the right of survivorship. Therefore, a judgment lien on the **deceased tenant's property** interest also **disappears** (as seen here).

(Choice B) The sister's notice of the friend's judgment has no bearing on the enforceability of his judgment lien on the brother's property interest.

(Choice C) Although the friend rented the apartment from the brother, he was a tenant of both siblings. But his judgment lien only encumbered the *brother's* property interest and disappeared upon the brother's death.

(Choice D) To create an enforceable judgment lien on a debtor's property, the judgment must be filed while the debtor owns that property. Therefore, the friend obtained an enforceable lien on the brother's one-half interest by filing the judgment before the brother's death. But the lien disappeared when the brother died.

Educational objective:

Under a joint tenancy, a deceased tenant's property interest disappears and is absorbed by the surviving tenants due to the right of survivorship. As a result, a judgment lien on the deceased tenant's interest also disappears.

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