CANADA / JUDGMENT

Gloger v. Evans

2025 ONCA 730

COURT
Court of Appeal for Ontario

DECIDED
23 October 2025

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Gloger v. Evans Collection Decisions of the Court of Appeal Date 2025-10-23 Neutral citation 2025 ONCA 730 Docket numbers COA-24-CV-0055 Judges Huscroft, Grant; Coroza, Steve A.; Monahan, Patrick J. Subject Civil Decision Content COURT OF APPEAL FOR ONTARIO CITATION: Gloger v. Evans, 2025 ONCA 730 DATE: 20251023 DOCKET: COA-24-CV-0055 Huscroft, Coroza and Monahan JJ.A. BETWEEN Robert Gloger Plaintiff/Defendant by Counterclaim (Appellant) and Michelle Evans Defendant/Plaintiff by Counterclaim (Respondent) Charles Lun, for the appellant Christopher Salazar, for the respondent Heard: October 20, 2025 On appeal from the judgment of Justice Phillip Sutherland of the Superior Court of Justice, dated December 4, 2023. REASONS FOR DECISION

[1] The appellant appeals from the judgment of the trial judge, dismissing his action to set aside minutes of settlement dated July 18, 2017. We dismissed the appeal without calling on the respondent. These are our reasons.

[2] The appellant and the respondent have been involved in a dispute over their father's estate since his passing in 2015. Minutes of settlement entered into in 2017 permitted the respondent to purchase one of the estate's primary assets – a Coldwater, Ontario property – for $290,000. The appellant was to receive this amount from the estate's remaining assets, following probate. Title to the property was not to pass until the estate had been probated, but the respondent was permitted to move into the property and has lived there ever since. Eight years later, probate has not been completed and the appellant has not received his money.

[3] The appellant argues that the trial judge made a palpable and overriding error and erred in law in finding that the respondent's failure to provide a detailed list of every estate asset stored at the property did not constitute a repudiation of the minutes of settlement. There is no merit to these arguments. The appellant was not able to point to any error, much less a palpable and overriding error, made by the trial judge. Although the trial judge found that the respondent did not provide a list of chattels, there was no evidence that a list was required for probate. Nor did the respondent repudiate the settlement by failing to provide a list of chattels. The trial judge found the parties were jointly responsible for failing to probate the estate in a timely and reasonable manner.

[4] The basic problem in this case is that the appellant agreed to a settlement with the respondent that permitted her to live in the house while he took no steps either to enforce the settlement or to seek directions from the court on the steps required to obtain probate. Several years have now gone by and the appellant cannot share in the increase in the value of the property. The trial judge properly found that there was no basis to set aside the minutes of settlement and that this was not a rare case in which the court should exercise its residual discretion not to enforce the minutes. The appellant would not suffer an injustice, whereas the respondent would be prejudiced if the settlement were not enforced. We see no basis to interfere with his exercise of discretion.

[5] The appeal is dismissed. The respondent is entitled to costs in the agreed amount of $12,500, all inclusive. “Grant Huscroft J.A.” “S. Coroza J.A.” “P.J. Monahan J.A.”

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