

Court of Pennsylvania seems to tacitly acknowledge the existence of the general rule by stating at page 327:

"Under the express terms of the present agreement, the reservation is so connected with acts yet to be performed by the contracting parties, in order to determine and adequately describe the property involved, that there can be no application of the rule which appellants claim should control this case, namely, 'If the description of the exception is void for uncertainty, the title for the whole tract passes . . . (8 R.C.L. 1097; 18 Corp. Juris 344, 348).' As correctly said in the work last above cited (18 C.J. 348), uncertainty of description does not render a reservation void where there is a method provided in the deed 'whereby it can be made sufficiently certain.'"

Neither *Mezza v. Beiletti*, supra, nor *Goldman v. McShain*, supra, are applicable to the facts or address themselves to the issues here under consideration.

Neither the research of counsel or our own research has produced any case law either accepting or rejecting the rule 162 A.L.R. asserts to be the general rule. It would thus appear that if we had concluded the description of Tract No. 2 violated the Statute of Frauds, we would be confronted with a case of first impression, and it would seem that the rationale for the general rule is more persuasive than defendant's argument that a valid enforceable contract for the sale of 140 acres should fall for want of an adequate description of a 3 acre exception despite the fact that she has had the use and benefit of plaintiff's rather substantial consideration for more than five years. To apply either the general rule or the conclusion urged by counsel for the defendant, would, in our judgment, produce a grossly inequitable result shocking to the conscience of the chancellor. Happily, we need not resolve this dilemma, for we are persuaded that the Statute of Frauds has been complied with as to Tracts Nos. 1 and 2.

COUNTERCLAIMS

The defendant has failed to sustain the requisite burden of proof as to her counterclaims. They will, therefore, be dismissed.

DECREE NISI

NOW, this 22nd day of September, 1977, the plaintiff's prayer for a decree of specific performance is granted.

Plaintiff's surveyor shall enter upon the lands of the defendant located on the South side of U. S. Route 30, Brush Creek Township, Fulton County, Penna. and survey Tracts Nos. 1 and 2 of the agreement pursuant to the detailed explanation given at trial. The deed conveying Tract No. 1 and excepting Tract No. 2 shall conform to the said survey.

Costs to be paid by the defendant.

Exceptions are granted the defendant.

HARSHMAN v. WILLIAMS, C. P. Franklin County Branch, No. 77 February Term, 1976

Negligence - Wrongful Death Action - Survival Action - Motion to Strike - More Specific Complaint - Administration Expenses - Household Services - Monetary Support.

1. The decedent's parents may not institute a wrongful death action within six months of the date of death under Pa. R.C.P. 2202.
2. Only the personal representative may institute a wrongful death action within six months of decedent's death.
3. A motion for a more specific complaint will be granted where the plaintiff sets forth a demand for administrative costs in a lump sum and does not plead each item included in the lump sum.
4. A motion for a more specific complaint will be granted where the plaintiff seeks to recover for household services the decedent rendered, but does not specify the economic value of these services.
5. In order to recover for monetary support rendered plaintiff by a decedent, plaintiff must plead regular monetary contributions made prior to death.

Daniel W. Long, Esq., Attorney for Defendant

Roy S. F. Angle, Esq. Attorney for Plaintiffs

OPINION AND ORDER

EPPINGER, P.J., November 10, 1977:

The Plaintiffs, Robert E. Harshman and Beulah B. Harshman, his wife, (Harshmans) individually, and as

administrators of the estate of Karen Ann Harshman (Karen) filed a wrongful death and survival action against Ray M. Williams (Williams). It said in the Complaint that a collision occurred on August 5, 1975, caused by the negligence of Williams resulting in Karen's death.

Williams filed Preliminary Objections to the Complaint. There is a Motion to Strike the caption because it is not in conformity with Pa. R.C.P. 2202 which authorizes only the personal representative to institute a cause of action for wrongful death within the first six months. Harshmans commenced their suit five months and three days following Karen's death. In the caption the Plaintiffs are the parents as individuals and Robert E. Harshman as Administrator of Karen's estate.

Clearly the parents cannot bring suit within six months following death. The caption creates confusion. Therefore the Court grants Williams' Motion to Strike the caption.

In the Motions for More Specific Complaint, Williams asked the Harshmans to (1) detail the administrative expenses, (2) give information on the value and nature of the services rendered by Karen to the parents and (3) give the basis for the parents to recover monetary support that Karen would have contributed to the household.

On the first point, paragraph 21 simply asks for administrative costs in the amount of \$200.33. The Court in *Fidelity-Philadelphia Trust Co. vs. Staats*, 358 Pa. 344, 57 A.2d 830 (1948) details permissible administrative expenses as follows (page 349):

... by the term "expenses of administration" in that Act (Act of 1937, P.L. 196, amending Act of 1855, P.L. 309, 12 P.S. 1602) the legislature could scarcely have intended the recovery of such items as those thus claimed, but only the cost of obtaining letters testamentary or of administration in order to qualify the plaintiff for the purpose of bringing suit. The term "expenses of administration" is employed in conjunction with hospital, nursing, medical and funeral expenses, and it would seem clear that all these items are intended to cover only such expenses as are immediately attendant upon, and related to, the decedent's injuries and death.

The Harshmans have not plead what costs are included in the \$200.33 total administrative expenses and are required to do so.

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LEGAL NOTICES, cont.

at 1524 Lincoln Way East, Chambersburg, Pa. The names and addresses of all persons owning or interested in said business are Donald E. Conley, 200 Garman Dr., Chambersburg, Pa.; Ramona P. Conley, 200 Garman Dr., Chambersburg, Pa. 17201.

(1-27)

NOTICE IS HEREBY GIVEN pursuant to the provisions of the Act of Assembly of May 24, 1945, P. L. 967 and its amendments and supplements of intention to file with the Secretary of the Commonwealth of Pennsylvania at Harrisburg and with the Prothonotary of the Court of Common Pleas of Franklin County, Pennsylvania, on January 31, 1978, an application for a certificate for the conducting of a business under the assumed or fictitious name of Don's Body Shop with its principal place of business at 1768 Lincoln Way East, Chambersburg, Penna. 17201. The names and addresses of all persons owning or interested in said business are Donald P. Crotty, 1768 Lincoln Way East, Chambersburg, Penna. 17201.

(1-27)

IN THE COURT OF COMMON PLEAS OF THE 39TH JUDICIAL DISTRICT OF FRANKLIN COUNTY, PENNSYLVANIA, ORPHANS' COURT DIVISION

The following list of Trustees, Guardians of Minors, Guardians of Incompetents and Custodians Accounts will be presented to the Orphans' Court Division of the Court of Common Pleas, Franklin County, Pennsylvania for Confirmation on February 2, 1978.

Foust: First & Final account of The Valley Bank & Trust Company, Successor to National Valley Bank & Trust Company, Guardian of the estate of J. Stanley Foust, an Incompetent Person.

GLENN E. SHADLE
Clerk of the Orphans' Court
Franklin County, Pennsylvania

(1-20, 1-27)

IN THE COURT OF COMMON PLEAS OF THE 39TH JUDICIAL DISTRICT OF FRANKLIN COUNTY, PENNSYLVANIA, ORPHANS' COURT DIVISION

The following list of Executors, Administrators and Guardian Accounts, Proposed Schedules of Distribution and Notices to Creditors and Reasons Why Distribution cannot be Proposed will be presented to the Court of Common Pleas of Franklin County, Pennsylvania, Orphans' Court Division for CONFIRMATION: February 2, 1978.

Knight First and Final account, statement of proposed distribution and notice to the creditors of Isabel E. Knight, Executrix of the estate of Jacob Franklih Knight late of The Borough of Chambersburg, Franklin County, Pennsylvania, deceased.

Hollinger First and Final account, statement of proposed distribution and notice to the creditors of Omar G. Hollinger, executor of the estate of Mabel G. Hollinger late of Montgomery Township, Franklin County, Pennsylvania, deceased.

Keyser First and Final account, statement of proposed distribution and notice to the creditors of

LEGAL NOTICES, cont.

Robert E. Keyser, Administrator of the estate of Richard Paul Keyser late of Montgomery Township, Franklin County, Pennsylvania, deceased.

GLENN E. SHADLE
Clerk of the Orphans' Court
Franklin County, Pennsylvania

(1-6, 1-13, 1-20, 1-27)

PLEASE NOTE:

We are well into the first month of 1978. Now is a good time to consider two matters.

FIRST: Our weekly circulation continues to increase, but we would like it to be even greater. Increased circulation makes the publication more vibrant, reduces the per copy cost/revenue ratio, and attracts commercial advertisers, thus creating a potential for improvement in content of the publication and lowering of expense to legal notice advertisers.

Please let the managing editor know about any potential subscribers!!!!

SECOND: Our Court Opinion pages are well over 150 before this issue goes to press. Soon, we intend to start a campaign to sell copies of the first bound volume inside Franklin County. George T. Bisel Company, of Philadelphia, is handling such sales outside Franklin County, and they report having received a considerable number of orders from all over the United States already. But we have the right to make direct sales in Franklin County. The revenue from such sales can be made a very important factor in the overall success of this publication. It should be borne in mind, the broader the sources of revenue, the more likely we can improve our Journal and reduce prices for subscriptions and legal notice advertising.

Please let the managing editor know about any potential purchasers of bound volumes!!!!

In paragraph 22 of the Complaint, the Harshmans alleged that they are deprived of household services that Karen would have rendered. A wrongful death action is to compensate the Plaintiffs for the pecuniary loss which could be suffered in the future because of death. *Pennsylvania Railroad Company v. Butler*, 57 Pa. 335 (1868). Therefore, Harshmans must plead that these services had an economic value to them and they have not done that. They will be required to do so.

Finally, paragraph 23 alleges the Harshmans will be deprived by Karen's death of the monetary support that she would have contributed to the household. Karen was an adult at the time of her death and in order for her parents to recover, according to Goodrich-Amram 2d, Sect. 2201:25 at page 247:

... it is necessary to determine what portion of the total earnings the survivors could reasonably have expected to receive and what personal services the decedent would have rendered them. This can be proven only by showing contributions made by the decedent in the past with sufficient regularity to justify a belief that they would have been continued by him in the future. Occasional gifts will not suffice, and, in the absence of proof of reasonably expectable contributions there can be no recovery for future pecuniary loss.

The Harshmans have not plead any regular monetary contributions by Karen to the household. Therefore, the Motion for a More Specific Complaint in this respect must be granted.

ORDER OF COURT

NOW, this 10th day of November, 1977, the Preliminary Objections are granted. Plaintiff is directed to file an Amended Complaint within twenty (20) days from this date or suffer non pros. Exceptions granted to the Plaintiffs.

BROWN v. BROWN, C.P. Fulton County Branch, No. 4 August Term, 1975

Assumpsit - Insurance - Right to proceeds - Fire loss - Husband and wife named insureds - Subsequent divorce - Practice - Compulsory non-suit as to co-defendant

1. Plaintiff wife, with knowledge she is not a named grantee with husband in real estate acquired during marriage and where she has received no