



IN THE COURT OF APPEALS OF IOWA

ETHEL E. WILLIAMS,	)	
Plaintiff-Appellee,	)	Filed March 24, 1981
	)	
vs.	)	0-432
	)	<u>2-64169</u>
JACKIE NIXON,	)	
Defendant,	)	
EDNA RAY HILL and HERBERT W. HILL,	)	
Defendant-Appellant.	)	

Appeal from Black Hawk District Court - Peter Van Metre, Judge.

Defendants Hill appeal trial court's ruling reforming a quit claim deed to correct a legal description and determining that the plaintiff had sole legal title to the property in question. - AFFIRMED.

Alfredo G. Parrish, and Linda Del Gallo, of Parrish & Del Gallo, Des Moines, for defendants-appellant.

Isadore Nadler, Waterloo, for plaintiff-appellee.

Submitted to Oxberger, C.J., and Donielson, Snell, Carter, and Johnson, JJ.

PER CURIAM

Defendants, Edna and Herbert Hill, appeal trial court's ruling reforming a quit claim deed to correct a legal description and quieting title to the property in the plaintiff. We affirm.

In 1970, Lubertha Pugh Payton executed a deed to herself and I. V. Williams as joint tenants with rights of survivorship of certain residential property. The lawyer consulted in this matter caused an erroneous legal description to be inserted in the deed. Following Payton's death, the error was discovered. In 1973, Edna Hill, executrix and sole devisee under Payton's will, and her husband, Herbert, executed a quit claim deed to I. V. Williams for the purpose stated thereon: to correct the legal description on the Payton-Williams deed previously recorded. This new instrument provided the Hills quit claim unto I. V. Williams of all right, title, interest, estate, claim and demand on the described property. Unfortunately, the legal description was again inadvertently entered in error. The deed was recorded by Williams in 1975.

I. V. Williams died in 1978 leaving the plaintiff as his widow and sole heir. Following his death, the Hills took control of the property in question and received the rental income from the tenants. Plaintiff filed this action on January 12, 1979, seeking the quit claim deed be reformed to show the correct legal description and title to the property be quieted and confirmed in her. She amended her petition to seek, in addition, monies paid by the tenants to the Hills since Williams' death. The trial court granted reformation and ordered the title quieted in the plaintiff. It determined defendant-tenant Nixon was an innocent party and provided for the Hills to be liable for rental payments due to plaintiff. The Hills appeal the ruling, arguing the court erred in reforming only the legal description. They assert the evidence supports the existence of an oral agreement and intention that I. V. Williams was to have only a life estate interest in the property, the remainder to Edna Hill upon his death. Our review is de novo. Iowa R. App. P.4.

Edna Hill argues a conversation she had with Payton in 1965 shows that Payton intended to devise to Hill all her property. Hill also claims an agreement, not in writing, existed between Williams and her concerning his possessing only a life estate interest. We do not find the evidence clearly shows the existence of such intent or agreement. The attorney involved in all of the written transactions testified he knew of none of these oral arrangements. Certainly, the documents do not reflect any of these

intents. Edna Hill's answer to the evidence is that she was unaware of the nature of the documents she signed. Absent a showing of fraud, this unawareness does not negate the effect of the documents.

We find the evidence clearly shows that reformation as to the legal description of the property is warranted and that plaintiff is entitled to absolute title in fee simple.

AFFIRMED.