FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 9-338 / 88-1460

CATHY L. DAUGHTON, and **CINDY M. EARLS**, as Conservators of **OLLIE ELIZABETH PARSON**,

Appellees,

vs.

CECIL J. PARSON and **NANCY ALICE PARSON**,

Appellants.

Appeal from the Iowa District Court for Decatur County, Darrell J. Goodhue, Judge.

The Parsons appeal from a district court judgment awarding the appellees $19,577 for rents, profits, and misappropriated funds due Ollie Parson. **AFFIRMED AS MODIFIED.**

Alfredo Parrish and Max Exline of Parrish & Kruidenier, Des Moines, for defendants-appellants.

Kirke C. Quinn and Bruce L. Anderson of Doran, Courter, Quinn & Doran, Boone, for plaintiffs- appellees.

Considered by Oxberger, C.J., and Sackett and Habhab, JJ.

PER CURIAM

Appellants appeal from judgment of the district court awarding appellees $19,577 for rents, profits, and misappropriated funds due Ollie Parson. We affirm as modified.

The pertinent facts of this case are fully set out in Daughton v. Parson, 423 N.W.2d 894, 895-96 (Iowa App. 1988), and need not be repeated here. The case was remanded for determination of any rents or profits owed and for determination of the owner of the proceeds of a certificate of deposit. The district court determined that expenditures incurred by Cecil prior to 1986 were in lieu of rent. After 1986, the district court established a rental value that was partially offset by certain improvements and contributions made by appellants during this period. The district court also required the proceeds of the certificate of deposit to be returned to the conservatorship, less expenses paid by Cecil. Based on this analysis, the district court awarded the appellees $19,577.

Because this case is in equity, our review is de novo. Iowa R. App. P. 4. In equity cases, especially when considering the credibility of witnesses, we give weight to the fact findings of the trial court, but are not bound by them. Iowa R. App. P. 14(f)(7).

Appellants assert the trial court erred in imposing judgment against them for rents owed to appellees since 1986. The gist of appellants' argument is the trial court erred in concluding that expenditures made by appellants for improvements to the farm prior to 1986 were in lieu of rent, thereby negating their counterclaim for the value of the aforesaid improvements. We disagree.

Application of the maxim that one who seeks equity must do equity is clearly appropriate in this case. See generally Khabbaz v. Swartz, 319 N.W.2d 279, 282 (Iowa 1982); City of Des Moines v. Harvey, 243 N.W.2d 606, 610 (Iowa 1976). It would be grossly inequitable for appellants to gain compensation for improvements made to the farm while ignoring the fact they farmed the property rent-free for almost twenty years. Additionally, appellants obviously harvested the bounty of their improvements to the farm through their operation of the property.

Appellants also challenge the trial court's findings in regard to the ownership of a certificate of deposit. The trial court found that the $10,000 certificate of deposit which Cecil cashed after the opening of the conservatorship belonged to plaintiffs' ward. We find no error in the trial court's conclusions in regard to this issue. While a presumption exists that joint tenants own an equal share in the account, such a presumption is rebuttable. See

Anderson v. Iowa Dep't of Human Serv., 368 N.W.2d 104, 109 (Iowa 1985). Cecil Parson cashed the certificate of deposit only after learning of the conservatorship proceedings. He never received the interest from the certificate of deposit nor did he claim it upon his income tax returns. In addition, Cecil admitted at trial that most of the certificate's funds were his mother's. From this record, we conclude appellees met their burden of rebutting the presumption that Cecil and his mother had equal shares in the account.

We do, however, modify the trial court in one respect. The record is devoid of evidence linking appellant Nancy Alice Parson to the conversion of the certificate of deposit funds. Appellee's judgment against her is reduced by the sum of $5,185. Costs of this appeal are assessed against appellants.

AFFIRMED AS MODIFIED.