IN THE COURT OF APPEALS OF IOWA

No. 3-517 / 92-1748

FILED
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CLERK SUPREME COURT
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MARVINA EIDE, Claimant,

Appellee,

vs.

JOANNE E. NATHEM, Executrix of the **MARVIN E. COLLINS** Estate,

Appellant.

Appeal from the Iowa District Court for Black Hawk County, Peter Van Metre, Judge.

The defendant executrix of an estate appeals a judgment of the district court upholding the plaintiff's claim to ownership of the decedent's homestead pursuant to a contract signed prior to the decedent's death. **AFFIRMED.**

Robert L. Rausch of the Rausch Law Firm, Waterloo, for appellant.

Eric W. Johnson of Beecher, Rathert, Field, Fister, Walker & Morris, Waterloo, for appellee.

Heard by Oxberger, C.J., and Sackett and Habhab, JJ. Donielson, J., takes no part.

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PER CURIAM

The appellant appeals a judgment of the district court upholding the plaintiff's claim to ownership of the decedent's homestead pursuant to a document signed prior to the decedent's death. The appellant argues "(1) the document signed on January 31, 1992, between the decedent and plaintiff was a will which was abrogated by the decedent's final will and testament; and (2) if the document is a contract, then the plaintiff did not give enough consideration to enforce the contract." We affirm.

The decent was the owner of a homestead located at 1320 West 7th Street in Waterloo. For a substantial period of time prior to his death, he attempted to sell, without success, the home. He died on March 21, 1992, following a two-year bout with cancer.

The plaintiff, Marvina Eide, a daughter of the decedent, filed a claim in probate alleging she was the owner of the decedent's home based on a contract entered into by herself and her deceased father on January 31, 1992. The notarized document reads as follows:

> TO WHOM IT MAY CONCERN:
>
> I, Marvin Edward Collins, being of sound mind, do hereby will my real estate property at 1320 W. 7th Street Waterloo, Iowa to my daughter, Marvina Lea Eide, in the event of my death. On the condition that she, Marvina Lea Eide, is to pay to my other daughters, Cheryl Riggs, Joanne Nathem, and Cindy Smith equal amounts of the divided sum of $6,555, coming out to $2185.00 each.
>
> This transaction is not to be questioned or challenged by any person or persons other than myself.

Dated this 31st day of January of 1992. 000135

/s/ Marvin Edward Collins

/s/ Marvina Lea Eide

The executor of the decedent's estate, another of his daughters, denied the claim and asserted that the agreement reached by the parties was in fact a will which was abrogated by decedent's final will and testament.

The matter was tried as a claim in probate in the district court. It was tried at law; therefore, our standard of review is for corrections of errors at law. In this respect, Iowa Code section 633.33 (1991) states contested claims shall be triable at law.

The findings of fact in a law action are binding if supported by substantial evidence. Iowa R. App. P. 14(f)(1). We construe the trial court's findings broadly and liberally. Grinnell Mut. Reins. Co. v. Voeltz, 431 N.W.2d 783, 785 (Iowa 1988).

> A finding of fact is supported by substantial evidence if the finding may be reasonably inferred from the evidence. In evaluating sufficiency of the evidence, we view it in its light most favorable to sustaining the court's judgment. We need to only consider evidence favorable to the judgment, whether or not it was contradicted. Briggs Transp. Co. v. Starr Sales Co., 262 N.W.2d 805, 808 (Iowa 1978).
>
> Evidence is substantial or sufficient when a reasonable mind could accept it as adequate to reach the same findings.

Waukon Auto Supply v. Farmers & Merchants Savings Bank, 440 N.W.2d 844, 846 (Iowa 1989) (citation omitted). Evidence

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is not insubstantial merely because it could support contrary inferences. Grinnell Mut. Reins. Co., 431 N.W.2d at 785 (citation omitted).

We find substantial evidence in the record to support the findings of the trial court. At trial, Marvina testified that during the decedent's illness with cancer she provided him with significant care such as giving him baths, giving him his medications, and running errands. Marvina stated she also worked with the local hospice in providing care to decedent.

Marvina eventually moved into decedent's home as his condition worsened. She testified it was during this time that decedent approached her stating he wanted to transfer his homestead, the only real estate he owned, in consideration of her past, present, and future services.

She further testified she and decedent drafted the contract together. Cindy Smith and Ethel Abkes were both present when the document was signed. Cindy is a daughter of the decedent. Ethel was the decedent's fiancee. Their testimony established that the decedent's motivation behind having the document drawn up was to leave the homestead to the claimant in return for claimant's care and services. The trial court found that the instrument was a contract to provide care and services in consideration for receiving real property at the time of the decedent's death. The trial court specifically found that the contract was enforceable. We agree. We recognize that an agreement to

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give or leave property to another, based upon a consideration, is a valid and enforceable contract. Kisor v. Litzenberg, 203 Iowa 1183, 1187, 212 N.W. 343, 345 (1927). It matters not that the real property was a homestead. Horner v. Maxwell, 171 Iowa 660 (1915).

We turn next to the executor's contention that even if the document is a contract, the claimant did not give enough consideration to enforce the contract. Like the trial court, we also disagree with this assertion. The adequacy of the consideration is for the parties to consider at the time of making the agreement. Kisor, 203 Iowa at 1190, 212 N.W. at 346. It is not for the court to consider when it is sought to be enforced. Id.; see also Bell v. Cooper, 190 Iowa 529, 534, 180 N.W. 642, 642-43 (1920). There is substantial evidence in the record to support the trial court's finding that the testimony of the witnesses establishes the fact that the claimant cared for the decedent until the time of his death. We affirm.

AFFIRMED.