New Jersey Retains Jurisdiction Over Quiet Title Action

November 30, 2018 | by Matthew Rheingold

In Frances Richburg (deceased) v. Estate of Roy Richburg, (Nov. 2, 2018, N.J. Sup. Ct. App.Div., Docket No. A-1951-16T1), the New Jersey Appellate Division reversed the Chancery Court's decision to dismiss, su esponte, a quiet title action on the basis of forum non conveniens. The opinion further cements the long-held rule that actions affecting the title of land should be brought in the jurisdiction where the land is located.

Allen Richburg died a resident of Kings County, New York in 1992. At the time of his death, Allen owned properties in Jersey City either solely in his own name or jointly with his surviving wife, Frances. By deeds dated in 1997 and 2004, Frances transferred title to the properties to her son Roy. After Roy's death, Frances filed a quiet title action in Chancery Court against Roy's estate to set aside those deeds based upon theories of "'forgery, fraud, undue influence and inadequate consideration". The quiet title action was filed in 2015 and Frances died soon thereafter, also a resident of Kings County. In 2016, Allan and France's daughter, Martha, submitted France's Last Will and Testament for probate with the Kings County Surrogate and also petitioned the Kings County Surrogate to be appointed successor administrator of her Allen's estate.

Furthermore, Martha filed an order to show cause in New Jersey Chancery Court to be appointed as temporary administrator ad litem for her parents' estates in order to continue prosecution of the quiet title action. Roy's estate did not oppose Martha's application, but merely informed the Chancery judge that France's Will had been offered for probate in Kings County. On the return date, the Chancery judge stated that he believed the appropriate forum to litigate the quiet title action was Kings County and would dismiss the action on this basis of forum non convenies unless Martha could "convince [him] otherwise . . . ." Martha argued that the quiet title action should remain in New Jersey because (1) the land was located in New Jersey, (2) a quiet title action would be time-barred in New York and (3) Roy's estate had not even objected to the forum. The Chancery judge ultimately dismissed the quiet title action based upon what he perceived to be identical issues of undue influence and fraud in the probate

matter of France's estate pending before the Kings County Surrogate despite the fact there was no evidence that anyone had contested, or would contest, France's Last Will and Testament.

On appeal, the Appellate Division noted that to properly invoke the doctrine of forum non conveniens, especially where the plaintiff has no other forum to litigate the cause of action, the burden is on the defendant to show that litigating the action in the selected forum presents such a great hardship to the defendant that dismissal is warranted. In this case, however, the Chancery Court improperly placed the burden of proof on the plaintiff.

In reversing the Chancery Court's decision, the Appellate Division held that "[w]ithout any other available forum to make the property title determination, and no demonstrable 'very great hardship' to defendant, the action was properly venued in New Jersey." Moreover, the Court further held "New Jersey is the only state that can adjudicate title to [New Jersey] property."