

NO. A11-180

State of Minnesota
In Court of Appeals

In the Matter of the Petition of Beachside I Homeowners Association, a Minnesota non-profit corporation, For a New Certificate of Title After Foreclosure of Assessment Lien

APPELLANT BEACHSIDE I HOMEOWNERS ASSOCIATION'S
REPLY BRIEF

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ARGUMENT

The District Court erred in ruling that Respondents had an interest in the Property through conveyance from Thomas Schafer because Thomas Schafer did not have an assignable interest in the Property at the time of the conveyance since no court had ever determined that he was an heir of Florence Schafer before Beachside acquired its interest in the Property.

Respondents' Appeal Brief confirms that all of Respondents' claims to any interest in the Property are wholly dependent on their contention that Thomas Schafer acquired an assignable interest in the Property at Florence Schafer's death even though her estate was never probated and even though no court had determined that Thomas Schafer was an heir of Florence Schafer. Respondents' Appeal Brief also confirms that this appeal presents a purely legal question to be reviewed *de novo* by this Court, namely whether the District Court erred when it ruled that Respondents held an interest in the Property based upon conveyances from Thomas Schafer even though Thomas Schafer had never been legally determined to be an heir of Florence Schafer and therefore did not have an assignable interest in the Property to convey to Respondents.

In their Appeal Brief, Respondents argue that Minnesota Statutes Section 524.3-101 requires this Court to affirm the District Court. (Respondents' Brief at 8-9.) In citing this Section, however, Respondents fail to quote the statute in full, leaving out language directly undermining their arguments.

Minnesota Statutes Section 524.3-101 provides in full as follows:

The power of a person to leave property by will, and the rights of creditors, devisees, and heirs to the person's property are subject to the restrictions and limitations contained in chapters 524 and 525 to facilitate the prompt settlement of estates. Upon death, a person's real and

personal property devolves to the persons to whom it is devised by last will or to those indicated as substitutes for them in cases involving lapse, disclaimer, renunciation, or other circumstances affecting the devolution of testate estates or in absence of testamentary disposition, to the decedent's heirs or to those indicated as substitutes for them in cases involving disclaimer, renunciation, or other circumstances affecting devolution of intestate estates, subject to the provisions of Sections 525.14 and 524.2-402, the allowances provided for by Sections 524.2-403 and 524.2-404, to the rights of creditors, elective share of the surviving spouse, and to administration.

Minn. Stat. § 524.3-101 (emphasis added).

Thus, the provision that a decedent's property devolves to the decedent's heirs is expressly subject to the restrictions and limitations contained in Minnesota Statutes Chapters 524 and 525 "to facilitate the prompt settlement of estates." *Id.* Respondents' argument—that whether an estate has been probated or otherwise settled in accordance with Chapters 524 and 525 is irrelevant to an alleged heir's claim to property—is contrary to this language in the statute and is inconsistent with the express legislative purpose set forth in Section 524.3-101 to facilitate the prompt settlement of estates. *Id.* Respondents' argument is not based on any prompt settlement of estates, but instead would allow distant relatives of the decedent to lay in wait and assert claimed interests in real estate many years after the decedent's death. Such a result does not facilitate the prompt settlement of estates. Instead, it does the opposite by encouraging parties to fail or refuse to probate or settle estates and delay until some future date when they may attempt to improve their legal position or arguments.

Respondents' assertion that Section 524.3-101 "makes no mention of the necessity of a probate proceeding," (Respondents' Brief at 10) is simply incorrect. The first sentence of Section 524.3-101, which Respondents fail to include in their brief, expressly provides that the restrictions and limitations contained in Chapters 524 and 525 apply to claims by heirs to a decedent's property, and that these limitations are in place to "facilitate the prompt settlement of estates." Minn. Stat. § 524.3-101. Accordingly, Section 524.3-101 does not support Respondents' arguments and it does not require this Court to affirm the District Court's erroneous legal conclusions.

Finally, Respondents' reliance on various case law in support of their argument for affirmance of the District Court is flawed for the reasons already set forth in Beachside's initial Appeal Brief. Likewise, Respondents' reliance on their purported interests in the Property stemming from Thomas Schafer's tax lien and Evans Contractors' mechanic's lien fail because each is dependent on Respondents' incorrect claim that Thomas Schafer acquired an assignable interest in the Property even though Florence Schafer's estate was never probated and even though no court had determined that Thomas Schafer was an heir of Florence Schafer, as explained in Beachside's initial Appeal Brief.

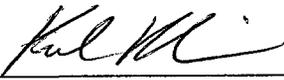
CONCLUSION

For the reasons set forth above and the reasons set forth in Beachside's initial brief, Beachside respectfully requests that this Court reverse the District Court and remand this case for entry of summary judgment in favor of Beachside and for the issuance of a new certificate of title for the Property in the name of Beachside.

Respectfully submitted,

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Dated: March 29, 2011

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CERTIFICATE OF BRIEF LENGTH

I hereby certify that this brief conforms to the requirements of Minn. R. Civ. App. P. 132.01, subds. 1 and 3, for a brief produced with a proportional font. The length of this brief is 832 words. This brief was prepared using Microsoft Word 2007.

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