

STATE OF MICHIGAN
COURT OF APPEALS

In re ESTATE OF JACKIE LEE HAAS.

JANISE L. CURTIS,

Appellant,

v

NANCY L. HAAS,

Appellee.

UNPUBLISHED

April 23, 2019

No. 343711

Shiawassee Probate Court

LC No. 17-037604-DE

Before: BORRELLO, P.J., and SHAPIRO and RIORDAN, JJ.

PER CURIAM.

In this dispute between siblings Janise Curtis and Nancy Haas over the administration of the estate of their father, Curtis appeals as of right the probate court’s order removing her as personal representative of the estate and appointing a successor personal representative. For the reasons set forth in this opinion, we affirm.

I. BACKGROUND

Jackie Lee Haas, the decedent, died on March 13, 2017. In his will, dated October 12, 2016, the decedent nominated his daughter Janise Curtis as personal representative of his estate, and he devised a bank account and investment account to her. According to Curtis, this investment account consisted of three stocks. The decedent also devised his home to his daughter Nancy.¹ Nancy had been living with the decedent in his home at the decedent’s request. Nancy had been living in the home for several years. The remainder of the decedent’s estate was devised to Curtis and Nancy in equal shares.

¹ Because Nancy and the decedent share the same last name, we will use Nancy’s first name throughout this opinion to avoid confusion.

On May 8, 2017, Curtis filed an application seeking informal probate of the will and to have herself appointed personal representative pursuant to the terms of the will. The decedent's will was admitted to informal probate, and Curtis was appointed personal representative.

During the course of administering the estate, Curtis retained counsel and incurred substantial bills for legal services. There were also other expenses and creditors of the estate. The estate had limited liquid assets, and the estate's most valuable asset was the house. Curtis intended to sell the house if necessary in order to pay the estate's financial obligations. However, Curtis's attorney sent Nancy a letter indicating that Nancy would be able to keep the house if Nancy personally paid over \$20,000, which represented various financial obligations of the estate.

Nancy subsequently petitioned to have Curtis removed as the personal representative, claiming that Curtis should be removed because (1) "removal is in the best interests of the estate," (2) "the person who sought appointment of the current personal representative intentionally misrepresented material facts," and (3) the personal representative "mismanaged the estate."

Following an evidentiary hearing, the probate court removed Curtis as personal representative and appointed a new personal representative. This appeal ensued.

II. STANDARD OF REVIEW

"The proper application of a statute presents a question of law that we consider *de novo*." *In re Kramek Estate*, 268 Mich App 565, 569; 710 NW2d 753 (2005). Review of a probate court's decision whether to remove a personal representative is for an abuse of discretion. *Id.* at 576. "The trial court abuses its discretion when it chooses an outcome outside the range of reasonable and principled outcomes." *In re Temple Marital Trust*, 278 Mich App 122, 128; 748 NW2d 265 (2008).

III. ANALYSIS

Curtis argues on appeal that the probate court abused its discretion by removing her as personal representative.

Section 3611 of the Estates and Protected Individuals Code (EPIC), MCL 700.1101 *et seq.*, provides the applicable standards for removing a personal representative for cause. *In re Kramek Estate*, 268 Mich App at 575. MCL 700.3611 provides in pertinent part as follows:

(1) An interested person may petition for removal of a personal representative for cause at any time . . .

(2) The court may remove a personal representative under any of the following circumstances:

(a) Removal is in the best interests of the estate.

(b) It is shown that the personal representative or the person who sought the personal representative's appointment intentionally misrepresented material facts in a proceeding leading to the appointment.

(c) The personal representative did any of the following:

(i) Disregarded a court order.

(ii) Became incapable of discharging the duties of office.

(iii) Mismanaged the estate.

(iv) Failed to perform a duty pertaining to the office.

In this case, the probate court determined that Curtis had managed the estate in a manner that promoted her own interests as a beneficiary over the interests of the estate. The probate court found that such management demonstrated mismanagement of the estate and that removal of Curtis was therefore in the best interests of the estate.

Review of the record evidence submitted in this matter leads us to conclude that there was evidence to support the probate court's conclusion that Curtis had attempted to get Nancy to agree to distributing the estate in a manner other than the method prescribed by the decedent in his will. After Nancy refused, Curtis retained legal counsel and incurred significant expenses for the estate in the form of bills for legal services and personal representative fees, even though the estate involved a simple will and relatively few, easily identifiable assets, creditors, and heirs. As her retained counsel continued to pursue Curtis's legal issues, Curtis did not question the amount of legal expenses that the estate was incurring. As found by the probate court, such management of the estate led to the estate incurring high expenses that were disproportionate to the estate's limited assets. The evidence further suggested that Curtis's manner of administering the estate, which was not cost-efficient, would significantly impact Nancy's distribution under circumstances where the will had provided for Curtis to receive a distribution that was substantially lower than Nancy's. A personal representative "is a fiduciary" who is "under a duty to settle and distribute the decedent's estate in accordance with the terms of a probated and effective will and [EPIC], and as expeditiously and efficiently as is consistent with the best interests of the estate." MCL 700.3703(1). The evidence does not reflect an attempt by Curtis to settle and distribute the estate expeditiously and efficiently. Under these circumstances, it appears that Curtis was mismanaging the estate and that removing her as personal representative was in the estate's best interests. MCL 700.3611(2)(a) and (c)(iii). Accordingly, we conclude that the probate court's decision to remove Curtis as personal representative thus was not an abuse of discretion.

Affirmed. No costs are awarded. MCR 7.219(A).

/s/ Stephen L. Borrello

/s/ Douglas B. Shapiro

/s/ Michael J. Riordan