

STATE OF MICHIGAN  
COURT OF APPEALS

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ESTATE of GEORGE THOMAS DUDLEY,  
Deceased.

UNPUBLISHED  
March 14, 2006

Plaintiff-Appellee,

v

LUCINDA KNOWLES,

No. 256917  
Newaygo Circuit Court  
LC No. 02-018495-CK

Defendant-Appellant.

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Before: Murphy, P.J., and White and Meter, JJ.

PER CURIAM.

Defendant appeals as of right from a judgment of the circuit court, entered after a bench trial, imposing a constructive trust on her interest in two parcels of property conveyed to her by decedent. We affirm.

In 1996, decedent and defendant entered into an agreement whereby defendant and her family would be permitted to live in decedent's home in exchange for defendant providing care for decedent, including cleaning, cooking, and providing companionship; if defendant continued to provide such care until decedent's death, she would inherit defendant's property, but would not do so if she did not continue to provide such care. In the fall of 1997, decedent executed a will providing that defendant would receive the residuary of his estate should she care for him until his death, and also executed a durable power of attorney in defendant's favor. In June and November of 1998, decedent executed two quitclaim deeds creating joint tenancies between himself and defendant in two parcels of property he previously owned exclusively. Thereafter, the parties' relationship began to deteriorate, and defendant and her family moved out of decedent's home in July 2000. Decedent executed a new will devising the residue of his estate to his grandchildren and later commenced the instant litigation, seeking a constructive trust over the property interest he had conveyed to defendant. Decedent died during the course of this litigation, and his estate was substituted as plaintiff. After a bench trial, the trial court concluded that defendant was unjustly enriched by the transfer, as she failed to fully perform under the agreement. The court imposed a constructive trust in favor of decedent's estate on defendant's interest in the properties at issue.

Defendant's sole argument on appeal is that the lower court erred in imposing a constructive trust by relying solely on a theory of unjust enrichment. We disagree. A proceeding seeking the imposition of a constructive trust sounds in equity. *Kren v Rubin*, 338

Mich 288, 294; 61 NW2d 9 (1953). We review “a lower court’s decisions in equity de novo and all underlying findings of fact for clear error.” *46th Circuit Trial Court v Crawford Co*, 266 Mich App 150, 170; 702 NW2d 588 (2005). “A finding is clearly erroneous when, although there is evidence to support it, the reviewing court on the entire record is left with the definite and firm conviction that a mistake has been committed.” *Walters v Snyder*, 239 Mich App 453, 456; 608 NW2d 97 (2000).

A constructive trust “is the formula through which the conscience of equity finds expression. When property has been acquired in such circumstances that the holder of the legal title may not, in good conscience, retain the beneficial interest, equity converts him into a trustee.” *Kent v Klein*, 352 Mich 652, 656; 91 NW2d 11 (1958), quoting *Beatty v Guggenheim Exploration Co*, 255 NY 380, 386; 122 NE 378 (1919). A constructive trust arises by operation of law. *Id.* It “is an equitable remedy which the court may impose where the facts justify it.” *In re Swantek Estate*, 172 Mich App 509, 517; 432 NW2d 307 (1988).

Defendant incorrectly argues that unjust enrichment alone cannot support the imposition of a constructive trust. As our Supreme Court has stated, a constructive trust “may be imposed ‘where such trust is necessary to do equity or to prevent unjust enrichment.’” *Kammer Asphalt Paving Co, Inc v East China Twp Schools*, 443 Mich 176, 188; 504 NW2d 635 (1993), quoting *Ooley v Collins*, 344 Mich 148, 158; 73 NW2d 464 (1955). “Fraud in the inception we do not require, nor deceit, nor chicanery in any of its varied guises, for it is not necessary that property be wrongfully acquired. It is enough that it be unconscionably withheld.” *Kent, supra* at 657.

Further, the record supports the imposition of a constructive trust here in order to prevent unjust enrichment. “In order to sustain the claim of unjust enrichment, plaintiff must establish (1) the receipt of a benefit by defendant from plaintiff, and (2) an inequity resulting to plaintiff because of the retention of the benefit by defendant.” *Belle Isle Grill Corp v Detroit*, 256 Mich App 463, 478; 666 NW2d 271 (2003). As to the first element, clearly defendant received a benefit from decedent—she acquired decedent’s property upon his death through her right of survivorship. *Albro v Allen*, 434 Mich 271, 274; 454 NW2d 85 (1990). Additionally, as the trial court correctly found, the parties entered into an agreement to exchange lifetime care for property. Defendant did not complete her performance according to the terms of that agreement. It would thus be inequitable to permit her to retain property she did not earn according to the agreement. This is sufficient to justify the imposition of a constructive trust. *Kammer Asphalt Paving, supra* at 188; *Kent, supra* at 657.

Defendant maintains that she was precluded from completing performance by decedent, who forced her to leave his home. While it is true that a “constructive trust will not be imposed upon property owned by parties who have in no way contributed to the reasons for imposing a constructive trust,” *Ooley, supra* at 158, the court’s finding that a serious personality conflict developed between decedent and defendant’s husband, which made it impossible for the parties to live together, was well supported by the record, as was the court’s conclusion that this case is

more akin to *Evans v Johnson*, 295 Mich 443; 295 NW 219 (1940), and *Ferguson v Ferguson*, 287 Mich 714; 284 NW 619 (1939), in which deeds were set aside, than *Randall v Randall*, 302 Mich 289; 4 NW2d 550 (1942), in which the deed was upheld.

Affirmed.

/s/ William B. Murphy

/s/ Helene N. White

/s/ Patrick M. Meter