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In re: Colman Family Revocable Living Trust, 136 Nev. Adv. Op. 13 (Apr. 2, 2020)

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PROBATE LAW: Effects of divorce on nonprobate transfers of property

Summary

A second beneficiary is entitled to a property in a trust created by decedent and her former spouse, under NRS 111.781, when (1) the property remained decedent's separate property throughout the marriage; (2) the spouses have divorced; and (3) there is no evidence that the former spouse had contributed to the purchase of the property or its improvement.

Background

Decedent Chari Colman purchased the property at issue before she married appellant Paul Colman, and the couple lived there after marrying. During the marriage, Chari transferred the property into their family trust but did not change its status as her separate property. The trust named Paul and Chari as its primary beneficiaries and provided that, after both of their deaths, respondent Tonya Collier was the beneficiary of the subject property. Paul and Chari divorced one month before Chari's death, but they continued to live together on the property.

After Chari's death, and based on NRS 111.781, Collier filed a petition in district court seeking to confirm her status as beneficiary to the property. The probate commissioner found that Collier was the vested beneficiary of the real property and that the property should be distributed to her. The district court adopted the commissioner's findings over Paul's objection and ordered the property transferred to Collier.

Discussion

NRS 111.781 provides that unless "otherwise provided by the express terms of a governing instrument," any revocable dispositions of property to a former spouse, including those made pursuant to a trust, are automatically revoked upon divorce.² Because there was no other governing instrument demonstrating Chari's intent to the contrary, the Court found that the district court correctly applied NRS 111.781 in concluding that it required revocation of Paul's interest in the property.

Additionally, after reviewing the record on appeal, the Court found that the property remained Chari's separate property throughout the marriage and Paul did not contribute to the purchase or improvement of the property.

Conclusion

The Court affirmed the district court's decision that a second beneficiary is entitled to a property in a trust created by decedent her former spouse under NRS 111.781.

¹ By Petya Pucci.

² Nev. Rev. Stat. § 111.781 (2015).