

Summary of SC90407, Stat ex rel. Billie Barker, Trustee of the Mary Almond Living Trust v. The Honorable David B. Tobben

Writ proceeding arising in the Jefferson County circuit court, Judge David B. Tobben
Argued and submitted Jan. 27, 2010; opinion issued April 20, 2010

Attorneys: Barker was represented by Stanley D. Schnaare and Steven A. Waterkotte of The Schnaare Law Firm P.C. in Hillsboro, (636) 797-3355, and Gloria Kappler was represented by William L. Sauerwein of Sauerwein, Simon & Blanchard P.C. in St. Louis, (314) 863-9100.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: Trustees of two living trusts sued each other to determine which trust has title to disputed property. In a unanimous decision written by Judge Richard B. Teitelman, the Supreme Court of Missouri makes permanent its writ prohibiting the circuit court from denying a jury trial on the claims for quiet title and the counterclaim for trespass, which are legal actions. If the circuit court elects to hold a separate proceeding on the counterclaim for injunctive relief, an equitable action, it must resolve that claim consistent with the jury's factual findings.

Facts: Gloria Kappler, trustee of the Gloria J. Kappler Living Trust, filed suit against Billie Barker, successor trustee of the Mary Almond Living Trust, under claims of adverse possession and boundary by acquiescence to quiet title to property titled to the Almond trust. Kappler requested relief in the form of an ownership decree, a property survey and an order ejecting the record owners from the property. Barker filed a counterclaim for quiet title, injunctive relief, ejectment, trespass, conversion and punitive damages and requested a jury trial. Kappler objected to a jury trial and moved to sever her quiet title action from Barker's counterclaim for damages. The court sustained Kappler's objection to Barker's request for a jury trial, severed Kappler's quiet title claim from Barker's counterclaim but provided for a jury trial on the issue of damages in the event Barker prevailed. Barker seeks this Court's permanent writ prohibiting the trial court from denying her request for a jury trial in the underlying quiet title action.

WRIT MADE PERMANENT.

Court en banc holds: Barker is entitled to a jury trial on Kappler's quiet title claims as well as her own counterclaim for trespass. The right to a jury trial under article I, section 22(a) of the Missouri Constitution exists in civil actions at law but not in civil actions in equity. In cases presenting mixed issues of law and equity, trials should be conducted to allow legal claims to be tried to a jury, with the trial court reserving for its own determination only equitable claims and defenses, which it should decide consistently with the jury's factual findings. Section 527.150, RSMo, governs actions to quiet title and authorizes relief under both legal and equitable principles. A quiet title action in which parties seek only a determination of title and make no specific request for equitable relief generally is considered legal in nature. Kappler's suit does not state a claim for equitable relief but seeks quiet title based on the claims of adverse possession and boundary by acquiescence. To the extent the pleadings seek only a determination of which party has title to the disputed property, the quiet title action properly is characterized as

legal and not equitable. Consequently, article I, section 22(a) of the Missouri Constitution demands a jury trial on all claims pertaining to the determination of title to the disputed property. If necessary, the trial court may elect to hold a separate proceeding on Barker's request for injunctive relief – an equitable claim – but it must resolve that claim consistent with the jury's factual findings.