

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

JOHN RANDOLPH BAKEWELL

APPELLANT,

v.

**LAURIE K. BREITENSTEIN,
SUCCESSOR TRUSTEE OF THE
JANICE M. BAKEWELL LIVING
TRUST DATED JULY 2, 2010**

RESPONDENT,

**JERRY D. LAWSON, TRUSTEE FOR
CITIFINANCIAL SERVICES, INC.,**

RESPONDENT,

**JOHN RANDOLPH BAKEWELL,
PERSONAL REPRESENTATIVE OF
THE ESTATE OF JANICE M.
BAKEWELL, DECEASED,**

RESPONDENT.

DOCKET NUMBER WD75341

DATE: March 5, 2013

Appeal From:

Cole County Circuit Court
The Honorable Jon E. Beetem, Judge

Appellate Judges:

Division Three: Cynthia L. Martin, Presiding Judge, Joseph M. Ellis, Judge and Gary D. Witt,
Judge

Attorneys:

John Randolph Bakewell, Appellant Pro Se.

David G. Bandre, Jefferson City, MO, for respondent Laurie K. Breitenstein
Matthew A. Clement, Jefferson City, MO for respondent Jerry Lawson

MISSOURI APPELLATE COURT OPINION SUMMARY

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No. WD75341

Cole County

Before Division Three: Cynthia L. Martin, Presiding Judge, Joseph M. Ellis, Judge and Gary D. Witt, Judge

This appeal involves the effect of a judicial decree of legal separation on the property rights of a spouse following the death of the other spouse. Following the death of Janice M. Bakewell, John Bakewell filed a declaratory judgment action against Laurie Breitenstein, successor trustee of Ms. Bakewell's living trust, and Jerry Lawson, trustee on a deed of trust executed by Ms. Bakewell in favor of CitiFinancial Services, Inc. Mr. Bakewell sought a declaration that he was the lawful owner of real estate awarded to Ms. Bakewell in a legal separation judgment prior to her death. Breitenstein counterclaimed and sought a declaration that Ms. Bakewell's living trust was the lawful owner of a deferred compensation account awarded to Ms. Bakewell in the legal separation judgment. The trial court granted summary judgment finding Mr. Bakewell possessed no rights in the real estate and declaring the living trust to be the owner of the deferred compensation account. Mr. Bakewell appeals, *pro se*.

Affirmed.

(1) A tenancy by the entirety estate can be destroyed by judicial decree as a part of marital property divisions either by including language in a decree sufficient to convey title without further action by the parties, or by ordering spouses to execute deeds of conveyance.

(2) Mr. Bakewell was divested of all right, title, and interest in the real estate by the legal separation judgment without further action by the parties rendering his challenge to the legal effectiveness of the quitclaim deed he executed following the legal separation judgment immaterial.

(3) Because the entry of the legal separation judgment divided the marital property such that it was no longer jointly owned, a waiver of marital inheritance rights was not required. However, the legal separation judgment was entered consistent with a property settlement agreement reached between the Bakewells, permitting the intent to waive marital inheritance rights to be implied.

(4) Because the legal separation judgment terminated any interest Mr. Bakewell had in the real estate, he lacks standing to challenge the deed of trust executed by Ms. Bakewell in favor of CitiFinancial Services, Inc.

(5) Any claim Mr. Bakewell may have had to the deferred compensation account was extinguished by the legal separation judgment which awarded the account to Ms. Bakewell as her sole and separate property.

Opinion by Cynthia L. Martin, Judge

March 5, 2013

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