

COURT OF COMMON PLEAS OF PHILADELPHIA
ORPHANS' COURT DIVISION

Estate of Leila Brown, Deceased
O.C. No. 1205 DE of 2010
Control No. 102228

OPINION

Petitioners, Estelle Cabbell and Harold Brown (“Petitioners”) argue that their brother, Thomas S. Brown, Jr. (“Thomas”) fraudulently represented to the Register of Wills that he and a fourth sibling, Lucille Staton (“Lucille”) were the only surviving children of their mother, Leila Brown (“Leila”), who died intestate on October 13, 1977. Petitioners request that the Letters of Administration granted to Thomas and Lucille on September 27, 1984 be revoked and that their transfer of Leila’s real estate at 2200 North Natrona Street, Philadelphia, Pennsylvania (“family home”) to themselves on December 27, 1984 be set aside as a fraudulent transfer. We agree with both requests by Petitioners.

By clear and convincing evidence and testimony, Petitioners proved that they had no knowledge that Thomas and Lucille had retitled the property in their names and only discovered this in November, 2006 when Thomas created the suspicion that he had concealed something about the family home. Upon checking, a copy of the deed to the family home was obtained and the fraudulent transfer was discovered. Thomas’ testimony that Petitioners knew and approved the transfer was not credible and was convincingly refuted by Petitioners’ witnesses.

This Court takes note of the long lapse of time which has transpired from the date of Leila’s death in 1977, the grant of Letters of Administration in 1984 and the eventual filing of the Petition in 2010 challenging transfer of the family home in 1984, over 25 years ago. While

laches, estoppel and unclean hands were pled as affirmative defenses, none of these defenses were pursued or argued during the hearing. Indeed, the evidence is compelling that the fraudulent conveyance of the family home was actively concealed from Petitioners and thus the affirmative defenses are inapplicable.

For reasons stated herein above, the Court enters a contemporaneous Order granting Petitioners' Petition.

Dated: August 24, 2011

BY THE COURT:

John W. Herron, J.

Michael H. VanBuskirk, Esquire
Howard M. Soloman, Esquire