

Saint Regis Mohawk Tribal Court

Estate of [REDACTED] Chubb

DECISION AND ORDER

Case No.: 17-CIV-00014

PROCEDURAL HISTORY

On August 15, 2017,¹ [REDACTED] Sunday filed a petition with the Saint Regis Mohawk Tribal Court requesting to be named the Executor for the Estate of [REDACTED] Chubb, her [REDACTED]. [REDACTED] Chubb died on July 20, 2017. [REDACTED] Sunday submitted a document, requesting it be recognized as [REDACTED] Chubb's last Will and Testament. [REDACTED] Sunday also submitted a statement from the Saint Regis Mohawk Tribe's Office of the Tribal Clerk certifying that [REDACTED] Chubb had five children: [REDACTED] Chubb, and [REDACTED] Chubb.

All of [REDACTED] Chubb's children were sent notices of a status conference on September 20, 2017, along with a copy of the Will. The notice informed them if they had objections to the Will they must submit them to the Court prior to September 20, 2017. No objections were received.

The Will was signed by [REDACTED] Chubb on December 8, 2016 and was signed by two witnesses. The Will is self-proven as it contains affidavits signed by both witnesses attesting that the testator, [REDACTED] Chubb, signed it in their presence and that they also witnessed each other sign the Will.

On September 20, 2017, the Court found the Will to be valid and issued Letters Testamentary to [REDACTED] Sunday, the named executor in the Will, on September 21, 2017. [REDACTED] Sunday submitted an inventory to the Court on September 20, 2017.

JURISDICTION

The Tribal Court has original jurisdiction over cases, matters or controversies arising under the laws, ordinances, regulations, customs and judicial decisions of the Tribe.² The Court possesses civil jurisdiction over disputes arising in, connected with, or substantially affecting

¹ The Saint Regis Mohawk Tribe's Probate Code was enacted on August 16, 2017 and thus is not binding on this process, as there are no provisions within the Probate Code to apply it retroactively.

² The Saint Regis Mohawk Tribal Court and Judiciary Code § V.1. (2012).

Mohawk Indian Country.³ Given that the resolution of an Estate of a Tribal Member affects land on the Saint Regis Mohawk Indian Reservation and resolution of a person's Estate is a civil issue that substantially affects Mohawk Indian Country,⁴ the Court assumes jurisdiction over this Estate.

APPLICABLE LAW

The Civil Code directs the Court to apply all "written laws adopted by the recognized governmental system of the Mohawk Tribe."⁵ The SRMT Land Laws and Land Dispute Ordinance (LL&LDO) was enacted by the Tribe in 2017. The LL&LDO specifically addresses intestate distribution⁶ and wills.⁷ Thus, the law is applicable to the case at bar.

DISTRIBUTION OF ASSETS

Chubb's Will contains six provisions regarding the disposition of her property. First, she gave her daughter her family ring. Sunday filed a notarized statement signed by that she received the ring. Second, she gave her daughter her six drawer jewelry box and its contents. Sunday filed a notarized statement signed by that she received the jewelry box and contents on September 11, 2017. Third, Chubb's daughter, received her motor vehicle. Sunday filed a notarized statement signed by that she received the car on August 7, 2017. Fourth, Chubb gave her daughter, her china hutch and its contents. Sunday filed a notarized statement that she received the items on July 27, 2017.

Chubb bequeathed her homestead and property at to her son, and her daughter, . Her Will identifies the real property as Lot . Chubb's land file contained in the Office of the Tribal Clerk identifies the property as Lot . Chubb's land file does not contain a deed for that property. However, there are two Tribal Certifications from the Saint Regis Mohawk Tribe's Office of the Tribal Clerk stating Chubb, , are the owners of Lot located at . There is also a third Tribal Certification from the Saint Regis Mohawk Tribe's Office of the Tribal Clerk, from 2010, stating that Chubb is the owner of the home and property at Lot located at and that a deed was in the process for signatures for the lot. It appears from the land file that there was some dispute over one of the boundaries and there are several hand drawn maps contained within. Given that there are several Tribal Certifications from the Tribal Clerk that Chubb owned the lot located at .

³ SRMT Civil Code § II.A. (2008).

⁴ The Saint Regis Mohawk Tribal Court and Judiciary Code § V.1. (2012).

⁵ SRMT Civil Code § V.2.

⁶ LL&LDO § V. A.

⁷ LL&LDO § V. B.

■■■■ this demonstrates evidence of ownership. The Court will leave it to the heirs and the Tribal Clerk's office to determine the actual boundaries to include in the new deed.

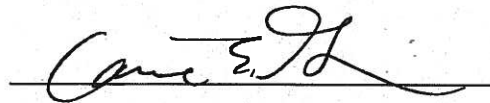
Finally, ■■■■ Chubb left her residue to all five of her children. ■■■■ Sunday indicated that they are in the process of dividing up the remaining personal items and that there was no dispute regarding those items.

ORDER

Based on the above, the Court hereby Orders and Decrees the following:

1. The items listed in the Will involving personal property have been distributed by the Executor, ■■■■ Sunday.
2. Lot ■■■■, located at ■■■■, Hogansburg, NY, is owned by the decedent, ■■■■ Chubb.
3. Lot ■■■■, located at ■■■■ Hogansburg, NY, including the home, as described in the last Will and Testament of ■■■■ Chubb is hereby transferred to ■■■■ Sunday and ■■■■ Chubb. As tenants in common, each shall own an equal possessory interest of 50% of Lot ■■■■.
4. ■■■■ Sunday and ■■■■ Chubb are hereby Ordered to seek a new deed from the Tribal Clerk's Office for Lot ■■■■ placing it in the names of to ■■■■ Sunday and ■■■■ Chubb.
5. ■■■■ Sunday shall file with the Court a notarized statement signed by all of the siblings that the remaining personal items have been distributed equally among the five children and a copy of the new deed. Following the receipt of these items, ■■■■ Sunday will be released as Executor and the case shall be closed.

Signed by my hand this 31st day of October, 2017.



Carrie E. Garrow, Chief Judge
Saint Regis Mohawk Tribal Court