

SAINT REGIS MOHAWK TRIBAL COURT

Estate of ██████████ Thompson

DECISION AND ORDER

Case No.: 18-CIV-00011

Procedural History

On March 27, 2018, ██████████ Thompson filed a Petition for Probate with a Will for ██████████ Thompson. Mrs. Thompson provided copies of a Will dated March 10, 2018, signed by Mr. Thompson and witnessed by ██████████ Thompson and Bonnie Cole. Attached to the Will was an Affidavit of Execution of Will signed by ██████████ Thompson. ██████████ Thompson affirmed that he was present and saw ██████████ Thompson sign the will and that he signed the Will in ██████████ Thompson's presence as a witness. Mrs. Thompson also provided a Certificate of Death and a certified family tree. ██████████ Thompson was an enrolled tribal member.

A Status Conference was held on March 28, 2018, and ██████████ Thompson provided a second will that concerned Mr. Thompson's property in the Northern portion of Akwesasne or Canada. Ms. Bonnie Cole, who works for the Mohawk Council of Akwesasne's Office of Vital Statistics, did not provide an Affidavit of Execution and was contacted via telephone. She affirmed she witnessed ██████████ Thompson sign his will and that she signed as a witness in his presence. She also described that her office encourages individuals to make two wills, one concerning their property in Canada and one concerning their property in the United States. She stated ██████████ Thompson signed the will regarding his real property within boundaries of the Saint Regis Mohawk Reservation.

Mrs. Thompson also provided signed statements by herself and ██████████ a beneficiary of the will, waiving any objections to validity of the will and consenting to Mrs. Thompson being named Executor of the Will. Given that the will meets the requirements of the

Saint Regis Mohawk Tribe's Probate Law, the Court found the Will to be valid and signed the Letters of Executorship naming [REDACTED] Thompson as the Executrix on March 28, 2018.

A Status Conference was held on May 4, 2018. The Saint Regis Mohawk Tribal Clerk's Office provided various deeds to the Court for real property owned by Mr. Thompson. Mrs. Thompson provided the Court with an inventory. She also posted a Notice to Creditors in a local newspaper. No creditors contacted the Court or Mrs. Thompson.

Jurisdiction

The Saint Regis Mohawk Tribe's Probate Code grants the Court jurisdiction over probate matters involving tribal members that own real property or personal property located within the Reservation.¹

Analysis

The contents named in Mr. Thompson's will include his Tax Free Savings Account, a 401(k) pension plan, bank accounts, and any bonds. The 401(k) is not considered part of an Estate, as it names a beneficiary. The Savings Accounts and any other bank accounts or bonds shall go to [REDACTED]. The Will also included a provision for life insurance but, similar to a 401(k), life insurance already includes a designated beneficiary and thus is not part of an estate.

The Will transfers Mr. Thompson's pontoon, motor and trailer to [REDACTED] provided she wants to assume the debt. The Will also transfers the four-wheeler to [REDACTED]. Mrs. Thompson indicated that the four-wheeler had been previously given to [REDACTED] Thompson by [REDACTED] Thompson. Mrs. Thompson is going to provide a signed waiver by [REDACTED] waiving any interest to the four-wheeler.

The Will transfers all real property located on the Saint Regis Mohawk Tribe's territory to [REDACTED] Thompson. The Saint Regis Mohawk Tribal Clerk's Office provided the Court with four Right to Use and Occupancy Deeds, outlining the real property owned by [REDACTED] Thompson. The Deeds include Lots # [REDACTED]. All four deeds contain boundary descriptions. There are two Deeds for Lot # [REDACTED] one signed on October 14, 2010 and one signed on May 23, 2011. It is clear from the tract descriptions that these are two different pieces of

¹ Saint Regis Mohawk Tribe's Probate Code § 1.3(a).

property. The first Deed conveyed “part of that property known as Lot # [REDACTED] and the second Deed conveys “property known as Lot # [REDACTED]”

The SRMT Tribal Clerk’s Office also provided several deeds showing [REDACTED] Thompson had sold portions of his property at various times. Given that he has transferred this property already, this land is not part of his Estate. The SRMT Tribal Clerk’s Office also provided an unsigned deed between [REDACTED] Thompson and [REDACTED] Barriero. Mr. Barriero also provided the Court with a Land Sale Payment Receipt and Right of First Refusal, stating he had made his final payment for this land. This is for land described as Lot # [REDACTED] and is for 2.01 acres. The unsigned Deed includes a boundary description. [REDACTED] Thompson indicated that she was aware of this transaction and that it had been paid and she was prepared to transfer the land to Mr. Barriero.

It should also be noted that [REDACTED] Thompson possessed property within Canada. [REDACTED] Thompson waived any interest in this property and confirmed that she was working through the probate process in Canada to distribute that property.

Order

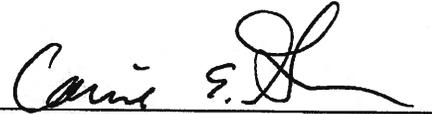
Given that [REDACTED] Thompson’s Will has been found valid, [REDACTED] Thompson is ORDERED to distribute the items in accordance with the terms of the will and provide proof of the distribution to the Court.

1. Mrs. Thompson is ORDERED to obtain from the SRMT Tribal Clerk’s Office a Right to Use and Occupancy Deeds in her name for Lot # [REDACTED]. The Deeds shall use the boundaries descriptions contained in the current deeds.
2. Mrs. Thompson is ORDERED to obtain a Right to Use and Occupancy Deed for Lot # [REDACTED], transferring the property to [REDACTED] Barriero. The Deed shall list [REDACTED] Thompson, Executrix of the [REDACTED] Thompson Estate, as the party of the First Part and [REDACTED] Barriero as the party of the Second Part. The deed shall include the boundary descriptions contained in the attached Schedule A.

3. Mrs. Thompson is ORDERED to provide a signed and notarized statement from [REDACTED] that she has been provided all monies from any Tax Free Savings Account, other bank accounts, and bonds to [REDACTED]
4. Mrs. Thompson is ORDERED to provide a signed and notarized statement from [REDACTED] that she has received the pontoon, motor and trailer.
5. Mrs. Thompson is ORDERED to provide a signed and notarized statement from [REDACTED] waiving any interest in the four-wheeler.

Once the Court has received copies of all the newly issued SRMT Right to Use and Occupancy Deeds and the signed and notarized statements from [REDACTED] the Estate will be closed and Mrs. Thompson will be released from her duties as Executrix of the Estate.

Signed by my hand this 7th day of May, 2018.



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