

Oneida Appeals Commission

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Trial Court

In The Matter of the Estate of
Katherine Jourdan

Docket Number 06-TC-063

Date: August 24, 2006

Probate Decision

This case has come before the Oneida Tribal Judicial System, Trial Court. Judicial Officers, Mary Adams, Robert Christjohn, and Leland Wigg-Ninham, presiding.

I Background

On June 8, 2006, the Land Commission, through Attorney Rebecca M. Webster, petitioned the court for orders approving heirship, appointing a personal representative if needed, and other orders necessary to settle this estate.

On July 7, 2000, decedent, Katherine Jourdan passed away. The original death certificate is on file at the Land Management office. The petition included: The Statement of Family History, Data for Family Heirship Finding, Tribal Agricultural Land Standard Assignment, Release of Tribal Land Assignment, Residential Lease, Jourdan family agreement (7/13/00), Designation of Successor, news clipping informing the death of Elaine Danforth, Land Management SOP 67.2.1-19, and Legal Notices for Katherine Jourdan. Land Commission's petition did not contain a Last Will and Testament.

The decedent had one marriage to Vernon Francis Jourdan, which ended with his death on January 29, 1990. The decedent had fourteen children. Five children, Hubert Jourdan, Elaine Danforth, Florence Jourdan, Florine Jourdan and Mary Agnes Jourdan predeceased her. Mr. Jourdan had four children, all of which survive the decedent. Ms. Danforth had two children, both of which survive the decedent. Florence, Florine, and Mary Agnes Jourdan passed away.

The Designation of Successor form states that in the event Ms. Danforth is unable or unwilling to accept the use of the land, Valerie Groleau, the decedent's daughter, should receive the use of the land through a Residential Lease.

II Issue

Is the Designation of Successor form valid?

III Analysis

Yes, the Designation of Successor form is valid and here is why. The Designation of Successor form is signed by Katherine Jourdan, with two witnesses and notarized. There was no objection to the transfer of the homesite in court.

The Land Commission does not offer a specific recommendation, considering the Real Property Law is unclear in this instance. The Designation of Successor Form used by Land Management does not contain any survivorship clauses and Real Property Law does not provide guidance on the requirements to perfect property interest with respect to an individual's estate. Petitioner's file does not contain or claim that a Last Will and Testament exist.

At the August 10, 2006, hearing the following individuals were present: Attorney for the Land Commission, Rebecca Webster, Valerie Groleau, Randall Jourdan Sr., and Marvin Jourdan. Randall Jourdan Sr., or Marvin Jourdan did not object to the transfer of decedent's homesite to Valerie Groleau. Furthermore, the Designation of Successor form was signed by decedent, Katherine Jourdan and notarized on June 7, 2000. This form reads:

This form must be on file in the Division of Land Management before any loan, home purchases, lease, rental or assignment of land can be approved. The signer(s) understand that if death or incapacity should occur, the successor named in this document would assume the status of the signer in All Open Transactions With the Oneida Division of Land Management, notwithstanding the designation of a beneficiary, guardian or power of attorney designated in any other document. Separate designation forms must be signed if two principals to a transaction designate different successors. The signer(s) may change their successor at any later time by written notice to the Division of Land Management.

Should the above name successor be unwilling or unable to accept the rights and responsibilities, as noted above, the following alternates are designated.

Elaine Danforth was listed as the first successor. While no death certificate was submitted, a copy of Elaine Danforth's obituary announcement was included as Exhibit 8. Valerie Groleau was listed as the second successor. Valerie Groleau was present at court to accept the transfer of decedent's homesite. The Land Commission has no recommendation because Elaine Danforth did not perfect her interest and federal and state courts are not clear in this matter.

The court acknowledges there was no Last Will and Testament. The court accepts the Designation of Successor form as the only legal document that provides a transfer of successor. The Designation of Successor form indicates that if the first named successor is unable to accept the rights and responsibilities then Valerie Groleau is named as the alternate. There were no objections to the transfer of the homesite to Valerie Groleau. Therefore, this court grants the transfer of decedent's homesite to Valerie Groleau.

IV Decision

This court grants the transfer of decedent's homesite to Valerie Groleau.

It is so ordered.