

Family Settlement Agreement for Farm Family Not Done Properly

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Overview

A family settlement agreement is one possible method of resolving conflicts among family members concerning assets and finances, among other issues. Done properly, a family settlement agreement can outline duties and responsibilities of family members and minimize or eliminate future family disputes. It is also a legally binding and enforceable contract. But, before a family settlement agreement is entered into, the family must carefully consider the purpose and scope of the agreement. The problems that need to be addressed should lead to provisions drafted into the agreement designed to resolve those problems.

A recent case from Iowa illustrates how *not* to go about executing a family settlement agreement – it's the topic of today's post.

Facts of the Case

In *In re Estate of Schultz, No. 22-1671, 2024 Iowa App. LEXIS 217 (Iowa Ct. App. Mar. 6, 2024)*, the decedent and her husband were longtime farmers. He died in 2001 and the decedent died in 2019. They divided the farmland between them equally in value and executed mirror-image wills in 1998, that left the surviving spouse a life estate in the deceased spouse's half of the farm property with the remainder interest passing equally to their four children upon the surviving spouse's death.

Note: At the time the wills were prepared in 1998, the total value of the couple's farmland was approximately \$11 million. For deaths in 1998, the federal estate tax applicable exclusion was \$625,000 with a top rate of 55 percent. Accordingly, the marital deduction wills with the credit shelter and life estate portions in each will was the proper approach from a federal estate tax minimization standpoint at the time.

The couple's only son farmed with his father and on his own after his father's death. In 2003, the son accompanied his mother to see her attorney. She changed her will to divide her farmland into specific farms and distributed them among her four children: four farms totaling 420 acres to the son; three farms totaling 151 acres to the three daughters to share equally; and one farm of 230 acres to be divided equally between all of the children along with her other property. The 2003 will named the son and one daughter as executors of the estate, but only the son was aware of the 2003 amended will. In addition, the decedent named the son and a different daughter as agents under a power of attorney. While the daughter named as agent under the power was not told of the designation, the son told another sister that she no longer needed to help their mother with her finances and bills. At about the same time, the decedent entered into a 16-year farm lease with the son with rent set at \$70 per acre.



The sisters discovered the existence of the amended will in 2014 and all of the children and their mother met with an attorney to have the 1998 will restored. The attorney, after meeting with the mother privately, determined that she lacked testamentary capacity to change the 2003 will and suggested a family settlement agreement as an alternative. The mother and the four children entered into a family settlement agreement that divided all of the mother's property equally among them upon her death. The decedent did not sign the agreement and two of the four siblings died before their mother (including the son). Upon the decedent's death, a surviving daughter (as executor) sought to probate the decedent's will. The attorney for the estate filed the family settlement agreement with the court the same day. After the 16-year lease expired, the executor also began renting 607 acres of farmland for \$100 per acre for three years. She signed the lease as both tenant and landlord with her husband and son also signing as tenants.

Trial Court Decision

The probate (trial) court admitted the will and family settlement agreement and the daughter distributed the decedent's estate according to the terms of the family settlement agreement. The trial court determined that the Family Settlement Agreement was valid and distributed the decedent's estate in accordance with that agreement (25 percent to a surviving sister; 25 percent to the sister serving as executor; 12.5 percent each to two children of a predeceased sister; and 8.33 percent to the three children of the pre-deceased brother. The trial court also found that the decedent only changed her will in 2003 because of the son's improper influence.

The children of the predeceased brother objected, claiming that the family settlement agreement was invalid, and that the daughter improperly accounted for estate assets and had engaged in self-dealing. The trial court determined that the executor had not engaged in self-dealing and directed the executor to either "amend" or "clarify" the accounting issue.

Appellate Court Has Different Views

On appeal, the appellate court reversed on the issue of the validity of the family settlement agreement. The appellate court found that the family settlement agreement was not valid. The parties' interests had not yet vested because the mother was still living at the time and two of her children predeceased her, and their children were not party to the family settlement agreement – a requirement of state law. *Iowa Code §633.273(1)*. The siblings' expectancy interest passed to their children, but they hadn't signed the family settlement agreement at the time it was admitted to probate. The appellate court remanded with directions for the trial court to hold further proceedings on the validity of the decedent's 2003 will.

The appellate court also determined that the accounting issue was not properly before the court. However, the appellate court affirmed the trial court's finding that the daughter that served as executor had not engaged in self-dealing. The rental amount was appropriate, and improvements made on the farmland were legitimate. The appellate court noted that state law requires court approval for self-dealing transactions (*Iowa Code §633,155*), but that the trial court retroactively approved the rental agreement and paying labor costs for the improvements.



Conclusion

There were various problems with this entire situation. The family was essentially trying to treat the family settlement agreement as a testamentary device. Without the mother's signature and satisfaction of the formalities for a will, that won't work. Also, state law was not followed in all respects to make the agreement valid. The accounting and self-dealing issues were the result of sloppiness by the executor and, perhaps, the attorney for the estate.

There's a right way and a wrong way to do a family settlement agreement. This case grades over into the wrong way.

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