



Melissa R. Henry

CLERK OF COURT
22nd Judicial District Court
Parish of St. Tammany

January 18, 2023

Raymond B Landry
Attorney at Law
2341 Metairie Road
Metairie La 70001

Vincent F Wynne, Jr
Attorney at Law
410 N Jefferson Avenue
Covington La 70433

RE: Succession of Daisy Lee Morris wife of/and Levi Morris
2005-30245 Division D

DEAR COUNSEL:

Enclosed, please find a certified copy of the Reasons for Judgment in the above referenced matter.

Sincerely,

Bridget Hickman
Deputy Clerk

22ND JUDICIAL DISTRICT COURT, PARISH OF ST. TAMMANY
STATE OF LOUISIANA

CASE No. 2005-30245

SECTION "D"

SUCCESSION OF DAISY LEE MORRIS, WIFE OF/AND LEVI MORRIS

FILED: JANUARY 17, 2023

Dwight Dickman
DEPUTY CLERK

REASONS FOR JUDGMENT

Levi Morris died intestate on December 6, 1990. Two years later, his widow, Daisy Lee Morris also died intestate. Decedents were married once and to each other. Fifteen children were born of the marriage: (1) Sammie L. Morris; (2) Leander Morris, deceased, and survived by three children; (3) Mitchell Morris; (4) Mary Morris Perry; (5) Sarah Morris Stormer; (6) Virginia Morris Briggs; (7) Arquillia Morris; (8) Leon Morris; (9) Learinza Morris; (10) Daisy Morris Carter; (11) Martin Luther Morris, who died in childhood; (12) Evangelo Morris; (13) David Morris; (14) Levi Timothy Morris; and (15) Jemina Morris Ferguson deceased and survived by children over the age of 24 and without physical infirmity or mental incapacity at the time of Decedents' death.

Decedents owned immovable property that being eight acres of land with a house and trailer in Folsom, Parish of St. Tammany, Louisiana. Vann opened the successions and was appointed Administrator by order of the Court on April 1, 2005, after none of the other heirs appeared interested in doing so.

On June 8, 2021, Opposing Heir, Virginia Morris Briggs ("Virginia"), filed a rule to remove administrator and appoint administratrix. On June 18, 2021, Vann

filed a petition for authority to sell the immovable property at private sale pursuant to La. C.C.P. art. 3281 for the appraised value of \$64,000.

Virginia's motion was heard on June 23, 2021, wherein she was represented by counsel. At the close of the hearing, the Court granted a motion for involuntary dismissal asserted by Vann's counsel and further denied the rule to remove administrator. The Court advised counsel that, if the matter was not closed within six months, it would entertain another motion to remove, and further that specific procedures must be followed when selling the property. In addition, the Court stated:

Again, if Mr. Morris goes forward or attempts to go forward with the sale of the property, then ya'll need to file the appropriate documents to contest it, and I will hear at that time the testimony regarding why one person would be better off purchasing the property than another person.

Vann was informed that none of the Opposing Heirs wanted to buy the property. However, heir, Mary Morris Perry, agreed to purchase the property for the appraised value. Notice of private sale was published in the St. Tammany Farmer on August 11 and September 1, 2021. When none of the Opposing Heirs came forward expressing an interest in purchasing the property, this Court issued a judgment on October 15, 2021, authorizing the sale as required by La. C.C.P. art. 3293, and the property was sold on November 9, 2021. The Opposing Heirs did not contest the sale but they did express some opposition approximately four months after the sale.

Based on the testimony given by the Opposing Heirs at the September 9, 2022, hearing, the Court finds that they had actual notice of the ongoing proceedings either through personal conversations, emails between counsel representing the parties, and a private family Facebook page. However, the Opposing Heirs contend that because formal service of process of the June 18, 2021 petition for authority to sell at private sale filed by Vann and the judgment of

October 15, 2021 granting the authority, was not made, they were deprived of the opportunity to formally oppose the sale.

Thus, the sole issue before the Court is whether formal service of these two pleadings is required under the law. The Court finds that it does not.

The Civil Code of Procedure sets forth the steps succession administrator must follow to sell succession property at private sale. La. C.C.P. art. 3261 states:

A succession representative may sell succession property in order to pay debts and legacies, or for any other purpose, when authorized by the court as provided in this Chapter.

La. C.C.P. art. 3281 states:

A succession representative who desires to sell succession property at private sale shall file a petition setting forth a description of the property, the price and conditions of and the reasons for the proposed sale. If an agreement to sell has been executed in accordance with Paragraph B of this Article, a copy of such agreement shall be annexed to the petition.

B. A succession representative may execute, without prior court authority, an agreement to sell succession property at private sale, subject to the suspensive condition that the court approve the proposed sale.

C. The succession representative shall be obligated to file a petition in accordance with Paragraph A of this Article within thirty (30) days of the date of execution of such an agreement to sell.

La. C.C.P. art. 3282 states:

Notice of the application for authority to sell succession property at private sale shall be published at least once for movable property, and at least twice for immovable property, in the manner provided by law. A court order shall not be required for the publication of the notice.

The notice shall be published in the parish in which the succession proceeding is pending. When immovable property situated in another parish is to be sold, the notice shall also be published in the parish in which the property is situated. When movable property situated in another parish is to be sold, the notice may be published also in the parish in which the property is situated, without necessity of a court order for the publication; however, the court may order the notice to be published in the parish where the movable property is situated. The notice shall state that any opposition to the proposed sale must be filed within seven days from the date of the last publication.

Based on the above chronology and the evidence in the record, Vann strictly followed the procedures mandated by the Code. Except for La. C.C.P. art. 3293, dealing with an exchange of succession property, no requirement exists that formal service be made on all heirs for a private sale to take place provided such sale has been approved by the court, as it was in the case before the court.

As argued by Vann, the three cases cited by the Opposing Heirs are distinguishable from the matter herein and do not support the argument that formal service is required. In *Succession of Doll*, 197 So.2d 342, 344 (La.App. 2d Cir. 1967), the requirement of formal service to sell succession property at private service is not addressed. Instead, the court noted:

With reference to the private sale of succession property, LSA-C.C.P. Art. 3281 provides that the succession representative ‘shall file a petition setting forth a description of the property, the price and conditions of and the reasons for the proposed sale.’ A further requirement is that notice of the application for authority to sell immovable succession property at private sale shall be published at least twice and state that any opposition to the proposed sale must be filed within 10 days from the date of the last publication. LSA-C.C.P. Art. 3282. However, if no opposition has been filed timely, the court shall render an order authorizing the sale, when it considers the sale to be to the best interests of the succession.

Opposing Heirs also rely on *Robinson v. Nunly*, 46,053 (La.App. 2 Cir. 6/10/11), 69 So.3d 631, a plurality decision.¹ No other case in this state has cited *Robinson* and it was soundly criticized by Peter S. Title, 1 LA. PRAC. REAL EST. §6:34. In addition, the Court finds that this case is factually distinguishable from the matter before it.

Finally, the Opposing Heirs cite *Succession of Chisholm*, 53,771, p. 7 (La.App. 2 Cir. 3/3/21), 314 So.3d 1056, 1060, wherein the appellate court stated:

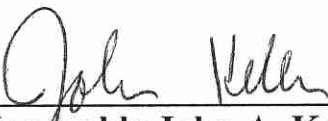
In selling the membership interest, Dan improperly relied on La. C.C.P. art. 3285 to accomplish the sale of the membership interest **without complying with the additional requirements for the private sale of succession property**-the publication of notice of the sale, La. C.C.P. art. 3282; the opportunity for any heir to oppose

¹ *Robinson* was written by C.J. Brown while J. Caraway concurred and J. Moore dissented.

such a sale, La. C.C.P. art. 3283; and, the opportunity for the court to provide judicial oversight to ensure the sale is for a fair price, La. C.C.P. art. 3284. **The requirements to which we have referred are, in our opinion, mandatory and must be at least substantially complied with to effect a private sale of succession property.** *Succession of Doll*, 197 So. 2d 342 (La. App. 2 Cir. 1967). [Emphasis supplied.]

Based on the Code of Civil Procedure and relevant jurisprudence, the Court finds that formal service was not necessary before Vann, with Court approval, sold the property to Mary by private sale.²

Covington, Louisiana, this 17 day of January, 2023.



Honorable John A. Keller
Judge, 22nd Judicial District Court "D"
Parish of St. Tammany



J.P. CLK, 22nd JUD. DIST. COURT
ST. TAMMANY PARISH

² It is noted that the Opposing Heirs believe the property should have been sold at a higher price. Nothing in this opinion prevents one of them from purchasing the property from Mary for a greater sum.

**Succession of Daisy Lee Morris
wife of/and Levi Morris**

200530245 Division D

22nd Judicial District Court

Parish of St. Tammany

State of Louisiana

NOTICE OF JUDGMENT

To:

Raymond B Landry
Attorney at Law
2341 Metairie Road
Metairie La 70001

Vincent F Wynne, Jr
Attorney at Law
410 N Jefferson Avenue
Covington La 70433

You are hereby notified that judgment was rendered in this matter in accordance with the certified copy attached hereto as part hereof.

By order of the Honorable Judges of said Court, this 17th day of January, 2023

Melissa R. Henry Clerk of Court

By:

Bridget Hickman

Bridget Hickman, Deputy Clerk

**NOTICE OF JUDGMENT AND
CERTIFIED COPY MAILED
TO ABOVE NAMED ON January 19, 2023**

Issued: 01/18/23

A TRUE COPY
Bridget Hickman
DEP. CLK, 22nd JUD. DIST. COURT
ST. TAMMANY PARISH, LA

305-Ntc of Judgment - Mail
Rev 7/16

22ND JUDICIAL DISTRICT COURT, PARISH OF ST. TAMMANY
STATE OF LOUISIANA

CASE No. 2005-30245

SECTION "D"

SUCCESSION OF DAISY LEE MORRIS, WIFE OF/AND LEVI MORRIS

FILED:

January 17th, 2023

[Signature]
DEPUTY CLERK

JUDGMENT

On September 9, 2022, the following matters came for trial on the merits:

1. Evangelo ("Vann") Morris' (Successions Representative/Administrator) Motion to Schedule Hearing to Approve Tableau and Distribution of Funds to Heirs and Objection to Appointment of Curator for Unrepresented/Absentee Heirs filed on April 6, 2022, said Petition Filing Descriptive List and Tableau filed on March 3, 2022;
2. Opposing Heirs' Motion to Remove Administrator, Place Succession Property in the Registry of Court, Appoint Administratrix of Successions, and Appoint Curator for Unrepresented/ Absentee Heirs; and
3. Opposing Heirs' Petition for Rescission of Sale of Estate Immovable Property for Lesion beyond Moiety and Damages.

Also before the Court were two matters, both filed by the Opposing Heirs that were deferred for hearing at a later date: Opposition to Tableau of Distribution and Motion to Traverse Sworn Detailed Descriptive List.

Present were:

Raymond Landry, on behalf of Vann Morris, Successions Representative of Successions of Daisy Lee Morris, Wife of/and Levi Morris;

Vincent Wynne, on behalf of Opposing Heirs, Learinza Morris, Daisy Morris Carter. Virginia Briggs Morris, and Levi Morris.

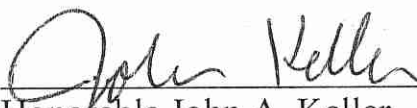
Upon considering the pleadings, evidence filed by the parties, memoranda and arguments of counsel, as well as the sworn testimony given at the hearing, and for the for oral reasons stated on the record in open court;

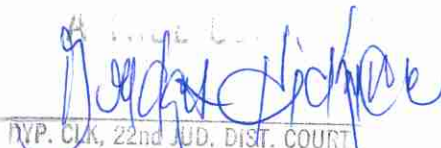
IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Opposing Heirs' Motion to Remove Administrator, Place Succession Property in the Registry of Court, Appoint Administratrix of Successions, and, Appoint Curator for Unrepresented/Absentee Heirs is **denied**.

The Court, having received and considered post-hearing memoranda submitted by the parties regarding the Opposing Heirs' Petition for Rescission of Sale of Estate Immovable Property for Lesion beyond Moiety and Damages; and finding that the testimony and evidence favors the Successions' Representative; and for the reasons set forth in its Reasons for Judgment;

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that the Opposing Heirs' Petition for Rescission of Sale of Estate Immovable Property for Lesion beyond Moiety and Damages is **denied with prejudice**.

Covington, Louisiana, this 17 day of January, 2023.


Honorable John A. Keller
Judge, 22nd Judicial District Court
Parish of St. Tammany


DYP. CLK, 22nd JUD. DIST. COURT
ST. TAMMANY PARISH