

IN THE COURT OF APPEALS OF IOWA

No. 2-173 / 11-0931
Filed May 23, 2012

**IN THE MATTER OF THE
ESTATE OF EUGENE E. CURRAN,
Deceased**

**THE ESTATE OF EUGENE E.
CURRAN,**
Appellant.

Appeal from the Iowa District Court for Lucas County, David L. Christensen, Judge.

An estate appeals the district court's order granting a permanent injunction enjoining the estate from selling property determined to be gifted to the decedent's son. **AFFIRMED.**

Brandon J. Shelton of Shelton Law Firm, Chariton, for appellant.

Roberta A. Chambers of Chambers & Relph Law Firm, P.C., Corydon, for appellee.

Considered by Eisenhauer, C.J., and Danilson and Bower, JJ.

BOWER, J.

The estate appeals from the district court's order granting a permanent injunction enjoining the estate from selling an International 766 tractor, following the court's determination the tractor was gifted by the decedent, Eugene Curran, to his son, Michael Curran, prior to Eugene's death. Upon our review, we agree with the district court's conclusion that Michael, as applicant for the permanent injunction, met his burden of proof that Eugene gifted the tractor to him in the summer of 2010. Accordingly, we affirm the imposition of the permanent injunction.

I. Background Facts and Proceedings.

Although there is some conflicting testimony in the record, we find the following to be a fair and accurate rendition of the facts of this case. In 2000, Eugene Curran and his son, Michael, became estranged following a family disagreement. Approximately five or six years later, they apologized and "came to peace." At that time Michael started helping his father out on the farm and spending time with him again.

Eugene owned an International 766 tractor.¹ Approximately five years ago, Eugene purchased a new set of John Deere tractors. Because Eugene never disposed of or traded anything in, he left the old International 766 parked out "at the Smith farm." Shortly thereafter, Michael asked if he could borrow the International 766 to do some haying. Eugene told Michael if he could get it running, he could use it. Michael made some repairs to the tractor to get it in

¹ This particular model of tractor was manufactured between 1971 and 1976. In its final year of production, the tractor sold for \$13,400.

working order. He used the tractor for haying and also used it to help Eugene with some farming. After using the tractor it was parked on “the south side of the road” in the weeds, where it remained for several years.

Eugene was diagnosed with colon cancer in the summer of 2009. He underwent surgery that fall. Following the surgery, Eugene lived with his brother, James, and James’s wife, Chris, for approximately eight months while he recovered. Michael spoke to Eugene on the phone during this time, but Eugene told Michael he was too tired for visitors. In May 2010, Eugene had recovered substantially and was able to return to his farm.

In June 2010, after being laid off from work, Michael asked Eugene if he could borrow the International 766 to earn some money haying for people. Eugene said he did not think it would run and suggested Michael use one of his newer tractors. Michael said he wanted to fix the tractor, and explained he felt more comfortable using it rather than the John Deere tractors because he “grew up running the International equipment.” Eugene persisted that the tractor was not worth putting any money into. Michael responded it was worth it to him because he did not have a tractor and Eugene was the only person he could borrow one from, so if he got it running, he could use it when needed. Eugene said if Michael was going to “put money into that tractor again,” it would be “the second time in four years,” and Michael could “just keep it.” Michael made repairs to the tractor and got it running. Michael kept the tractor parked back on the south side of the road, or at a field where he was working.

In October 2010, Eugene's health deteriorated and he was hospitalized. While in the hospital, Eugene had conversations with James, who was to be the executor of his estate, regarding the disposition of his property following his death. Eugene agreed all of his equipment should be auctioned. Eugene passed away on November 3, 2010. Shortly after his death, James and Michael met with the estate's attorney, and determined the assets of the estate should be sold without delay.² James scheduled an auction for December 18, 2010.

Approximately three weeks prior to the auction, Michael told his brother that he intended to purchase the International 766 and a few other items at the auction. Michael later admitted he knew the tractor was his, but did not bring it up because he had hoped to "keep peace" in the family and he "wanted for everything to go as smooth as possible for everybody." Michael's attitude about the tractor changed about a week or so later when James began "treating him badly," as Michael felt "ignored and shut out" in regarding the estate. At that time, he told James the tractor could not be sold because Eugene had given it to him.

Several days before the auction, Michael obtained a temporary injunction from the district court, enjoining the estate from selling the International 766. In April 2011, a hearing was held on Michael's application for a permanent injunction. The district court heard testimony from six witnesses, including Michael and James. At the close of the hearing, the court issued its ruling:

² The International 766, specifically, did not come up at the meeting.

The Court has reviewed the pleadings, the exhibits offered into evidence, and the testimony of the witnesses who have testified in person here today. The Court has had the opportunity to observe the witnesses and their demeanor and make a determination of their credibility.

The Applicant in this matter, Michael Curran, has the burden of proof in the matter of the request for a permanent injunction to prevent the sale of the IHC 766 tractor. Based upon the record made today, the Court finds that the Applicant, Michael Curran, has sustained his burden of proof and that his father gifted the IHC 766 tractor to him apparently in the summer of 2010.

Therefore, the executor will be permanently enjoined from selling the IHC 766 tractor which is owned and possessed by Michael Curran.

The district court subsequently filed a written order reiterating its findings and conclusion. The estate now appeals.

II. Standard of Review.

A request for an injunction invokes the court's equitable jurisdiction. Iowa R. Civ. P. 1.1501. Because the appeal of the injunction is in equity, our review is de novo. Iowa R. App. 6.907. In equity cases, we are not bound by the district court's factual findings, but we give them weight, especially when considering the credibility of witnesses. Iowa R. App. P. 6.904(3)(g).

III. Discussion.

In seeking an injunction, Michael has the burden to show not only a violation of his rights, but also that he will suffer substantial damages unless one is granted. *Matlock v. Weets*, 531 N.W.2d 118, 123 (Iowa 1995). "A court of equity should carefully weigh the relative hardship which would be incurred by the parties upon the award of injunctive relief." *Planned Parenthood of Mid-Iowa v. Maki*, 478 N.W.2d 637, 639 (Iowa 1991). The test for issuing an injunction is

whether the facts in the case show a necessity for intervention of equity in order to protect rights cognizable in equity. *Id.*

Upon our de novo review of the facts and circumstances of this case, we conclude Michael, as applicant for the permanent injunction, met his burden of proof that Eugene gifted the International 766 to him in the summer of 2010. Accordingly, we affirm the district court's imposition of the permanent injunction enjoining the estate from selling the tractor.

In reaching this conclusion, we determine that witness credibility is of particular importance in this case where the factual underpinnings of Michael's claim essentially lie in conversations he had with Eugene prior to Eugene's death. The district court had the opportunity to observe the witnesses and make a determination of their credibility in reaching its decision, as the court specifically noted in its ruling, and we give weight to those findings. Iowa R. App. P. 6.904(3)(g); *Matlock*, 531 N.W.2d at 121; *State ex rel. Chwirka v. Audino*, 260 N.W.2d 279, 283 (Iowa 1977)

We affirm the district court's imposition of the permanent injunction.

AFFIRMED.