

Property Law. *Bielecki v. Boissel*, 715 A.2d 571 (R.I. 1998). In *Bielecki v. Boissel*,¹ the Rhode Island Supreme Court resolved a dispute concerning a jointly held bank account.² In doing so, the court abandoned the rigid rule concerning jointly held bank accounts previously articulated in *Robinson v. Delfino*.

In *Bielecki v. Boissel*,³ the Court determined that a showing of fraud, undue influence, or duress, as stated in *Robinson*, are but one method of defeating a surviving joint holders claim to the proceeds of a jointly held bank account, the other being a showing that the jointly held account was for convenience only.⁴

FACTS AND TRAVEL

Christine Bielecki (Christine) and her husband, Dennis Bielecki (Dennis), were co-executors of Ernest Boissel's (Ernest) estate.⁵ Shortly before Ernest's death, Lynne-Marie Boissel (Lynne), Christine's sister and defendant in this case, withdrew funds from several joint bank accounts which stood in both her name and that of her father.⁶ As co-executors of Ernest's estate, Christine and Dennis filed suit against Lynne, asserting three counts under theories of recovery.⁷ The first count alleged "unlawful detention" of the funds.⁸ The second count was brought under the theory of constructive trust.⁹ The third count asserted that Lynne had converted the funds of the jointly held accounts.¹⁰ Even though the complaint alleged three different counts under three seemingly different theories of recovery, the court noted that "[e]ach count alleges that Lynne 'falsely, fraudulently and with intent to deceive' induced Ernest to create the several joint accounts by representing to him that such were in his best interest" knowing these representations to be false.¹¹

1. 715 A.2d 571 (R.I. 1998).

2. See *Robinson v. Delfino*, 710 A.2d 154 (R.I. 1998).

3. 715 A.2d 571 (R.I. 1998).

4. *Id.* at 574-75.

5. See *id.* at 572.

6. See *id.*

7. See *id.*

8. See *id.*

9. See *id.*

10. See *id.*

The following facts were deduced at trial. Ernest's health began to fail after the death of his wife in 1981.¹² Shortly after his wife's death, Ernest decided to open several joint bank accounts in the name of himself and his daughter, Lynne.¹³ Ernest's reasoning for creating these accounts was so Lynne could take care of him during his lifetime.¹⁴ It was Ernest's intent that, upon his death, the funds remaining in the joint accounts would be divided among his family members.¹⁵ Ernest's will was introduced at trial as further proof of his intent.¹⁶ The will specifically provided that "those names on the aforementioned accounts [including all jointly held bank accounts] were placed on those accounts for convenience only," and furthermore, that Ernest "did not intend to give those accounts as a gift to any person other than" as bequeathed in his will.¹⁷

On December 22, 1993, Ernest slipped into a coma while in Pawtucket Memorial Hospital.¹⁸ While Ernest was in a coma, Lynne, with knowledge of the provisions of his will, closed the joint accounts she held with her father and transferred the funds into accounts bearing her name only.¹⁹ Therefore, upon Ernest's death, on March 22, 1993, the provision in his will declaring that all money held in the joint bank accounts was for naught, since such accounts no longer existed.²⁰

The trial justice, sitting without a jury, entered judgment in favor of the plaintiff-coexecutors.²¹ Lynne appealed to the Rhode Island Supreme Court, alleging that the plaintiffs were not entitled to the relief granted by the trial justice due to the fact that there was no finding of fraudulent conduct on her part.²²

12. *See id.* at 573.

13. *See id.* at 572.

14. *See id.* at 572-73. The purpose of these joint accounts were not in dispute. Lynne testified at trial that Ernest, her father, "wanted me to take care of him, and that there was one particular account that was for \$2,000 and that he wanted to use that for his funeral costs . . . and that after I paid all the bills, to distribute the funds to family members and to include Jason [Ernest's grandson]." *Id.* at 573.

15. *See id.* at 573.

16. *See id.*

17. *Id.*

18. *See id.* at 574.

19. *See id.*

20. *See id.*

21. *See id.* at 571.

22. *See id.* at 572. On appeal, defendant also asserted that the trial justice

ANALYSIS AND HOLDING

The Rhode Island Supreme Court, in an opinion written by Justice Bourcier, determined that a finding of fraudulent conduct was not necessary in order for the plaintiffs to recover.²³ Even though plaintiffs' complaint asserted fraud and deceit by the defendant, the court held that under the Rhode Island Rules of Civil Procedure, plaintiffs failure to amend their complaint to conform with the evidence presented at trial was not fatal to the final judgment.²⁴

Furthermore, the court found that the trial justice's decision was based, not upon fraudulent conduct, but rather upon the nature of the jointly held bank accounts.²⁵ Since, according to the court, the trial justice's decision rested upon his finding that "the accounts in dispute were all in the first instance created as convenience accounts and not as true joint accounts with right of survivorship," his decision was well-founded in law.²⁶

The court summarily determined that its recent opinion in *Robinson v. Delfino*²⁷ was "inapplicable to this case."²⁸ The court further noted that nothing in *Robinson* neither "suggests that joint bank accounts established for purposes of convenience only are no longer permitted," nor "proclaim[s] that any right of present ownership in the account funds is transferred in a joint bank account to a person whose name is placed thereon for convenience only."²⁹

In *Robinson*, the court attempted to once and for all clarify the law surrounding survivorship rights in jointly held bank accounts.³⁰ In order to effectuate this task, the court established a

case-in-chief. See *id.* The court noted that even though the trial justice employed the rule of law "totally inapplicable" to the defendant's motion, his error was "harmless in light of the after-developed case facts." *Id.*

23. See *id.* at 574.

24. See *id.* The court noted that Rhode Island Superior Court Rule of Civil Procedure 15(b) provides that "failure to so amend [the complaint] does not affect the result of the trial of [those] issues." *Id.* at 574 n.4 (quoting R.I. Super. R. Civ. P. 15(b)).

25. See *id.* at 574.

26. *Id.*

27. 710 A.2d 154 (R.I. 1998).

28. *Bielecki*, 715 A.2d at 574. Lynne first raised for consideration the recent holding in *Robinson v. Delfino* at oral argument before the supreme court. See *id.*

29. *Id.*

rigid rule concerning such accounts.³¹ The rigid rule established by the court provided that "the opening of a joint bank account wherein survivorship rights are specifically provided for is conclusive evidence of the intention to transfer to the survivor an immediate *in praesenti* joint beneficial possessory ownership right in the balance of the account remaining" upon the death of the depositor.³² The sole restriction on this immediate ownership right is that there must be an absence of fraud, undue influence, duress, or lack of mental capacity.³³

In *Bielecki*, the trial justice's decision in favor of the plaintiffs was not based upon fraud, undue influence, duress, or lack of mental capacity. Instead, his decision was grounded upon the finding that the accounts were established as convenience accounts.³⁴ Since, according to the court, the trial justice's decision "was amply supported by the evidence," the decision of that court, ordering Lynne to return to the estate the funds removed from the jointly held bank accounts, must be affirmed.³⁵

CONCLUSION

The court's decision in *Bielecki* once again adds confusion to the law surrounding jointly held bank accounts as articulated just three months earlier in *Robinson v. Delfino*. The court's goal in *Robinson* was to conform the law surrounding jointly held accounts to the public's common understanding.³⁶ Finding the public's common understanding to be that the establishment of joint bank accounts creates an immediate possessory interest in the survivor, the court held that absent fraud, undue influence, duress, or lack of mental capacity, the survivor receives an immediate ownership right in the balance of the accounts.³⁷

In *Bielecki*, the court departs from the rigid rule established in *Robinson*, specifically noting that a finding by the trial justice of fraud was not actually necessary in order for a determination that the sole survivor of a jointly held bank account was not entitled to

31. *See id.*

32. *Id.* at 160-61.

33. *See id.*

34. *Bielecki*, 715 A.2d at 574.

35. *Id.* at 575.

36. *Robinson*, 710 A.2d at 156.

he proceeds of those accounts.³⁸ In finding as it did, the court
nce again re-establishes the "account of convenience" exception,
hus weakening the rigid rule established in *Robinson*.

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