

STATE OF MICHIGAN
COURT OF APPEALS

ANTONIO LOPEZ,

Plaintiff-Appellee,

v

MANUEL A. LOPEZ,

Defendant-Appellant.

UNPUBLISHED

October 24, 2006

No. 264022

Bay Probate Court

LC No. 04-044398-CZ

Before: Whitbeck, C.J., and Saad and Schuette, JJ.

PER CURIAM.

Defendant appeals from a probate court judgment that declared that six accounts belong to the parties' father's estate, rather than defendant individually. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant challenges the probate court's denial of his motion for judgment notwithstanding the verdict. This Court reviews de novo a circuit court's denial of a motion for judgment notwithstanding the verdict. *Sniecinski v Blue Cross & Blue Shield of Michigan*, 469 Mich 124, 131; 666 NW2d 186 (2003). This Court reviews the evidence and all legitimate inferences in the light most favorable to the nonmoving party. *Id.* Only if the evidence, when viewed in this light, fails to establish a claim as a matter of law should a motion for a directed verdict or judgment notwithstanding the verdict be granted. *Id.* If reasonable jurors could have reached different conclusions, the jury verdict must stand. *Diamond v Witherspoon*, 265 Mich App 673, 682; 696 NW2d 770 (2005).

Pursuant to MCL 487.703, a deposit made in a jointly owned account with the right of survivorship is prima facie evidence that the depositor intended title to the deposit to vest in the survivor of the account. The presumption "can be rebutted by reasonably clear and persuasive proof to the contrary, i.e., by proof of the decedent's intent that title to the jointly held funds not vest in the survivor." *In re Cullmann Estate*, 169 Mich App 778, 786; 426 NW2d 811 (1988) (citation omitted); *In re Wright Estate*, 430 Mich 463, 467; 424 NW2d 268 (1988).

Here, the jury found that the parties' father did not intend the accounts to become the property of defendant. Viewed in a light most favorable to plaintiff, the evidence showed that defendant was listed as a joint account owner for the purpose of assisting his parents because they had difficulty reading and speaking English and, thus, managing their accounts. Although there was no direct evidence of the parents' intent regarding the disposition of the account

proceeds upon their deaths, there was ample evidence from which the jury could reasonably infer that the parents established the joint accounts and designated the child who served as the joint owner for their own banking convenience. The repeated changes in the designation from one child to another supported an inference that the parents viewed the significance of the designation as a matter of convenience, not joint ownership or survivorship. Because reasonable jurors could have reached different conclusions, the trial court properly denied defendant's motion.

Affirmed.

/s/ William C. Whitbeck

/s/ Henry William Saad

/s/ Bill Schuette