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IN THE  
SUPREME COURT OF VIRGINIA

Record No. 8138

RICHARD I. GULICK, Administrator  
c.t.a. of the Estate of Donald  
Clyde Hawkins, Deceased,

Appellant,

vs.

ELYNORE M. HAWKINS,

Appellee.

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APPENDIX

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RICHARD I. GULICK  
Counsel for Appellant

Richard I. Gulick  
701 Plaza One Building  
Norfolk, Virginia 23510

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BILL OF COMPLAINT

Filed 4/14/72

To the Honorable Judges of the Aforesaid Court:

Your complainant respectfully represents unto the Court as follows:

1. On the 5th day of April, 1972, your complainant qualified in the Clerk's Office of the Circuit Court of the City of Virginia Beach, Virginia, as Administrator c.t.a. of the Estate of Donald Clyde Hawkins, Deceased, and posted a bond with surety as required.

2. That said Donald Clyde Hawkins departed this life on March 28, 1972, at Virginia Beach, Virginia, leaving a will and testament under which his daughter, Leatha Hawkins, is the sole beneficiary.

3. At the time of his death, the said decedent was married to Elynore M. Hawkins.

4. Prior to February 21, 1972, Donald C. Hawkins and Elynore M. Hawkins had separated, moved to separate residences and were no longer living together as man and wife.

5. Prior to February 21, 1972, and after the aforesaid separation Donald C. and Elynore M. Hawkins agreed to sell the real estate they owned as tenants by the entirety at 1121 Five Points Road, Virginia Beach, Virginia, and equally divide the net proceeds of the sale.

6. On February 21, 1972, Donald C. and Elynore M. Hawkins contracted to sell the aforesaid real estate to William D. and Shelley A. Stallings for the sum of \$85,000.00.

7. The sale of the aforementioned real estate has not yet been consummated; but is imminent.

8. It is the contention of this complainant that, the Estate of Donald Clyde Hawkins should receive one-half of the net proceeds received from the sale of the aforementioned real estate and has placed the defendants on notice of this.

9. Defendant, Elynore M. Hawkins, by her attorney, contends that none of the proceeds from the impending sale of real estate are due to the Estate of Donald Clyde Hawkins.

WHEREFORE, your complainant prays for an immediate decree requiring that one-half of the net proceeds of the sale of the property at 1121 Five Points Road, Virginia Beach, Virginia, be paid to the Estate of Donald Clyde Hawkins to be administered by your complainant. In the alternative and/or in the event the Court rules adversely to this complainant, your complainant prays for a Decree that one-half the net proceeds of the sale of the aforesaid real estate be placed in escrow pending a determination of ownership by this Honorable Court and a further determination of the case on appeal, if appeal is taken. Your complainant further prays that such other and

further relief be granted as in equity shall be proper and that a reasonable and proper fee be allowed your complainant for legal services rendered the Estate of Donald Clyde Hawkins in connection herewith.

Richard I. Gulick (s)  
Richard I. Gulick, Administrator  
c.t.a. of the Estate of Donald  
Clyde Hawkins, Deceased

Richard I. Gulick  
Attorney at Law  
701 Plaza One Building  
Norfolk, Virginia 23510

DEMURRER

Filed 4/17/72

The defendant, Elynore M. Hawkins, says that the Bill of Complaint is not sufficient at law.

ELYNORE M. HAWKINS

By William R. Moore, Jr. (s)  
Of Counsel

Parsons, Steffen & Moore  
1108 Maritime Tower  
Norfolk, Virginia

This is to certify that on the 14th day of April, 1972, I mailed a true copy of the foregoing to all counsel of record.

William R. Moore, Jr. (s)

D E C R E E

THIS CAUSE came on to be heard on the 21st day of April, 1972, upon the complainant's Bill and the Demurrer of the defendant, Elynore M. Hawkins, and upon the Demurrer of the defendants, William D. and Shelley A. Stallings, to the said Bill of Complaint duly filed; and was argued by counsel.

UPON CONSIDERATION WHEREOF, the Court having considered the Bill of Complaint and exhibits filed therewith and argument of counsel and the law presented therewith, the Court doth hereby

ADJUDGE, ORDER and DECREE that the said Demurrer be and the same hereby is sustained and the said Bill of Complaint be and the same hereby is dismissed and the Court further

ADJUDGES, ORDERS and DECREES that at least one-half (1/2) the net proceeds of said sale be held in escrow until the disposition of this case on appeal, if an appeal is timely filed, or the running of the appeal time if an appeal is not timely filed.

The Court doth further ADJUDGE, ORDER and DECREE without limitation that the defendants, William D. and Shelley A. Stallings are not properly parties defendant to the cause and the Demurrer filed in their behalf be and hereby is sustained.

And this cause, subject to the above, is dismissed from the docket to which ruling and action of the Court in sustaining

the Demurrer and dismissing the Bill of Complaint and dismissing this cause from the docket, the complainant duly excepts. And the complainant indicating his intention to appeal to the Supreme Court of Appeals of Virginia from this Decree, it is further ORDERED that the execution of this Decree be, and the same is, hereby suspended for a period of thirty (30) days from the date of this Decree.

Entered: 6/14/72

PWA (s)

We ask for this:

William R. Moore, Jr. (s) p.d.

H. Calvin Spain (s) p.d.

SEEN AND OBJECTED TO:

Richard I. Gulick (s) p.q.

NOTICE OF APPEAL AND ASSIGNMENT OF ERROR Filed 6/26/72

TO: John V. Fentress, Clerk  
Circuit Court of the City of  
Virginia Beach, Virginia

NOTICE is given that Richard I. Gulick, Administrator c.t.a. of the Estate of Donald Clyde Hawkins, Deceased, appeals in this case and will apply for a writ of error.

Assignments of Error

The following are the errors assigned:

The Circuit Court erred:

1. In sustaining the Demurrer and dismissing the Bill of Complaint.

Statement Concerning Filing of Transcript, etc.

No transcript, statement of facts, testimony or other incidents of the case is to be hereafter filed.

RICHARD I. GULICK

Richard I. Gulick (s)  
Administrator c.t.a. of the Estate  
of Donald Clyde Hawkins, Deceased

Richard I. Gulick, p.q.  
701 Plaza One Building  
Norfolk, Virginia 23510

I hereby certify that a copy of the foregoing Notice of Appeal and Assignment of Error were mailed to William R. Moore, Jr., 1108 Maritime Tower, 234 Monticello Avenue, Norfolk, Virginia.

Richard I. Gulick (s)  
Richard I. Gulick