

SUMMARY STATEMENT

Nordgaarden v. Kiebert

Docket No. 48919-2021

The Idaho Supreme Court affirmed the district court's decision ordering a partition by sale. Three siblings inherited a 5.7-acre lakefront lot abutting Lake Pend Oreille. Ruth Ann Nordgaarden filed an action against her siblings, Kay Kiebert and Kermit Kiebert, seeking the partition of the property by sale. Kermit filed a counterclaim, also seeking partition by sale. Kay, who currently lives on the disputed property, opposed a sale and sought a physical partition of the property. The district court ordered the parties to sell the property and split the proceeds equally after determining that physical partition of the property would result in great prejudice to the owners because: (1) none of the options for subdivision of the Kiebert Property would result in three parcels of equal value, and (2) partitioning the lot as required by the Bonner County Code Minor Land Division ("MLD") procedure would be too costly for the parties to undertake.

Kay appealed, primarily arguing that the district court relied on inappropriate considerations when it determined that physical partition would result in great prejudice to the parties.

The Idaho Supreme Court affirmed the district court's decision concluding that the property could not be physically partitioned without great prejudice to the parties. The Court clarified that the great prejudice determination under Idaho's partition statutes must take into account the totality of circumstances. The Court determined that the district court properly considered the totality of the circumstances, and therefore, did not err in determining that great prejudice would result from a physical partition and ordering the property to be sold.

This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.