

SUMMARY STATEMENT

Darrow v. White

Docket No. 49189

This appeal concerned the 2008 sale of real property located in Twin Falls, Idaho (“the Property”). The Property was owned by the partnership White, White & Lawley I (“WWLI”), which sold the Property to White X Three, LLC, (“White X Three”), for \$650,000. In 2009, after White X Three acquired and then substantially renovated the Property, it began to lease the Property to Wilson-Bates Appliance Stores, Inc., for an initial amount of \$21,000 per month, which was to be increased annually by 1.5%.

At the time of the sale, Xantha White, then a minor child, and Todd White, her uncle, each held a one-half interest in the White Family Trust. The White Family Trust was a one-third partner in WWLI when it sold the Property. As Trustee of the White Family Trust, Todd White—along with the other two partners of WWLI—agreed to sell the Property. Todd White was also a member of White X Three, placing him on both sides of the sale and purchase of the Property. Although he had a conflict of interest in the sale, Todd White did not obtain court approval for the sale pursuant to Idaho Code section 68-108(b), nor did he inform Xantha White or her mother, who was also Xantha’s guardian and conservator, of the sale. Exactly when Xantha White learned of the sale is disputed by the parties.

Xantha White (now known as Xantha Darrow) and the Trustee of the Xantha J. White Trust, Larry Braga, brought suit against Todd White and White X Three, asserting that, because Todd White did not obtain court approval for the sale of the Property, the sale was void and the Property should be placed in a constructive trust. Both parties moved for summary judgment. The district court granted partial summary judgment in favor of Todd White and White X Three, concluding that the sale of the Property was not void because Idaho Code section 68-108(b) did not apply. The district court also declined to place the Property in a constructive trust but allowed Xantha Darrow’s claim of breach of a fiduciary duty to continue.

Xantha Darrow moved the district court for an Idaho Rule of Civil Procedure 54(b) certification to allow her to appeal the partial summary judgment rendered against her. The district court granted her request, and this appeal followed.

The Idaho Supreme Court reversed the district court’s grant of partial summary judgment in favor of Todd White and White X Three. The Court first held that, pursuant to Idaho Code section 68-111, settlors could draft around Idaho Code section 68-108(b). The Court further held that there was a genuine issue of material fact as to whether Todd White had fulfilled the terms of the trust such that the requirement to obtain court approval for the sale of the Property pursuant to section 68-108(b) had been superseded. The Court also denied Todd White’s and White X Three’s request for attorney fees on appeal because they were not the prevailing party and because Xantha Darrow had appealed a novel question of law. The case was remanded for further proceedings.

******This summary constitutes no part of the Court’s opinion. It has been prepared by court staff for the convenience of the public.******