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“All Right, Title and Interest” May Transfer More than Intended

A recent Third Circuit cases illustrates the careful consideration that should be taken before the phrase “all right, title and interest” is included in a conveyance or transfer deed. In *Sheridan v. Cassel*, 70 So. 3d 89 (La. App. 3rd Cir. 2011) writ denied, 70 So. 3d 89 (La. 2011), the parties to the suit, Ms. Carolyn Sheridan and Mr. Tommy Cassel, disputed the ownership of the mineral rights underlying a 3.27-acre tract of land in Sabine Parish. The appellate court, with one member of the panel writing in dissent, upheld the trial court’s finding that Ms. Sheridan was the rightful owner of the mineral rights.

The history of this dispute began in 1966, when Sabine River Authority purchased the 3.27 acres from Mr. Cassel, who reserved the mineral rights, and thereby retained an imprescriptible mineral servitude so long as the Sabine River Authority continued to own the surface of the 3.27 acre tract.

The 3.27 acres were part of a larger 80-acre tract owned by Mr. Cassel. In 1969, Mr. Cassel purported to sell the entire 80-acre tract to his sister, Gertrude Cassel Ray. This cash sale agreement did not include an express reservation of the mineral rights and granted to Ms. Ray “complete transfer and subrogation of all rights and actions of warranty”

After Ms. Ray died, Mr. Cassel by quitclaim deed sold “all of his interest” in the 77-acre tract (expressly excluding the 3.27-acre tract) to Ms. Sheridan. That same day, in a different document, Cassel conveyed to Sheridan all of his “right, title, claim and interest, real and personal” in Ms. Ray’s estate. The question in the case, then, was whether the mineral rights reserved under the 3.27 acres were part of Ms. Ray’s estate by virtue of the 1969 conveyance, and as such passed to Ms. Sheridan, or whether the 1969 conveyance did not convey to Ms. Ray the mineral rights, meaning they remained with Mr. Cassel.

The majority held that in 1969, when Mr. Cassel sold “all rights” in the 80-acre tract to his sister, he conveyed to her the reserved mineral rights as well. Consequently, when he transferred all of his interest in his sister’s estate to Ms. Sheridan, that interest included the mineral rights under the 3.27 acres owned by the Sabine River Authority. Mr. Cassel’s argument was that it would have been “unnecessary” and “bizarre,” for him to have reserved mineral rights under acreage that was not

subject to sale. The court disagreed, holding that without a reservation in the 1969 sale, the mineral rights under the Sabine River Authority tract were transferred. The court cited the rule that a “conveyance of land carries with it all the incidents of ownership, including mineral rights, except such rights as may be expressly reserved” (citing *Texaco, Inc. v. Newton & Rosa Smith Charitable Trust*, 471 So. 2d 877, 882 (La. App. 2nd Cir. 1985)).

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