[Cite as *Pula v. Pula-Branch*, 2010-Ohio-912.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 93460

RUBY K. PULA, ET AL.

PLAINTIFFS-APPELLANTS

vs.

ADRIENNE HAUNANI PULA-BRANCH

DEFENDANT-APPELLEE

JUDGMENT:
REVERSED

Civil Appeal from the
Cuyahoga County Court of Common Pleas
Domestic Relations Division
Case No. D-323885

BEFORE: McMonagle, P.J., Stewart, J., and Cooney, J.

RELEASED: March 11, 2010

JOURNALIZED:

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N.B. This entry is an announcement of the court's decision. See App.R. 22(B) and 26(A); Loc.App.R. 22. This decision will be journalized and will become the judgment and order of the court pursuant to App.R. 22(C) unless a motion for reconsideration with supporting brief, per App.R. 26(A), or a motion for consideration en banc with supporting brief, per Loc.App.R. 25.1(B)(2), is filed within ten days of the announcement of the court's decision. The time period for review by the Supreme Court of Ohio shall begin to run upon the journalization of this court's announcement of decision by the clerk per App.R. 22(C). See, also, S.Ct. Prac.R. 2.2(A)(1).

CHRISTINE T. McMONAGLE, P.J.:

{¶ 1} This case originated as an interstate petition for child support filed by the state of Hawaii under the Uniform Interstate Family Support Act, codified in Ohio at R.C. 3115.01 et seq. The petition was brought on behalf of Ruby K. Pula, maternal grandmother of minor child K.G.P., and sought an order of support from Adrienne Haunani Pula-Branch, the child's mother. K.G.P. was born in Hawaii and lives there with Pula; his mother lives in Cleveland. K.G.P.'s parents never married.

{¶ 2} Counsel for Cuyahoga Support Enforcement Agency ("CSEA") filed the petition in the domestic relations division of the Cuyahoga County Common Pleas Court. Pula-Branch did not appear at the subsequent hearing before the magistrate, although she was properly served. At the hearing, CSEA provided information about both the purported father, George E. Gates, and Pula-Branch's incomes for purposes of determining the mother's support obligation.

{¶ 3} The magistrate subsequently issued a decision ordering Pula-Branch to pay $61 per month in child support ($51 current child support plus $10 arrearage support). The magistrate's decision found that the birth certificate submitted with the petition identified her as the child's mother. (Although not noted by the magistrate, the birth certificate also identified

Gates as the child's father.) The magistrate further found that according to the petition, paternity had been established.[1] Nevertheless, the magistrate concluded that no evidence verifying the establishment of paternity had been submitted to the court. The magistrate concluded that without evidence verifying paternity, it would be inequitable to include the father's income in any child support calculation.

{¶ 4} The trial court subsequently overruled CSEA's objections to the magistrate's decision and adopted the decision in its entirety. CSEA appealed from the trial court's decision.

{¶ 5} This court sua sponte ordered CSEA to brief the issue of whether the domestic relations court had subject-matter jurisdiction of this matter, because the parents never married, and the person seeking support was not the parent of the child. Because the domestic relations court lacked jurisdiction, we reverse with instructions to the domestic relations court to vacate its order.

I

{¶ 6} "'Jurisdiction' means 'the court's statutory or constitutional power to adjudicate the case.' The term encompasses jurisdiction over the subject matter and over the person. Because subject-matter jurisdiction goes to the

[1]Section VIII of the Child Support Enforcement Transmittal form from the Maui branch of Hawaii's Child Support Enforcement Agency indicated that a birth certificate establishing paternity was attached to the petition.

power of the court to adjudicate the merits of a case, it can never be waived and may be challenged at any time. It is a 'condition precedent to the court's ability to hear the case. If a court acts without jurisdiction, then any proclamation by that court is void.'" *Pratts v. Hurley*, 102 Ohio St.3d 81, 2004-Ohio-1980, 806 N.E.2d 992, ¶11 (internal citations omitted).

II

{¶ 7} Under R.C. 3115.16(B)(1) of the Uniform Interstate Family Support Act, when a "responding tribunal" in Ohio receives a complaint or comparable pleading from an initiating state (in this case Hawaii), it may "to the extent otherwise authorized by law * * * issue or enforce a support order."

{¶ 8} CSEA contends that the domestic relations court was the proper "responding tribunal" in this case because R.C. 3115.01(R) defines "responding tribunal" as "the authorized tribunal in a responding state" and R.C. 3115.01(X) defines "tribunal" as "any trial court of record in this state * * *." In light of these definitions, CSEA contends that it may bring an action under the Uniform Interstate Family Support Act in any Ohio court, and therefore the domestic relations court had proper jurisdiction of this matter. We disagree, because the statute provides that the responding tribunal must be an "authorized" tribunal and may act only "to the extent otherwise authorized by law." Although in some counties, a domestic relations court

may be an appropriate "responding tribunal" under the Uniform Interstate Family Support Act and authorized to hear cases such as this one, where the parents never married, the domestic relations court *of Cuyahoga County* is not authorized to hear and decide cases that do not involve issues relating to a divorce, dissolution, legal separation, or annulment of a marriage.

{¶ 9} The Ohio Constitution vests the judicial power of the state in "courts of common pleas and divisions thereof * * * as established by law." Section 1, Article IV, Ohio Constitution. The Ohio General Assembly defines the jurisdiction of the courts of common pleas and their respective divisions. Sections 4(A) and (B), Article IV, Ohio Constitution; *Walters v. Johnson*, 5th Dist. No. 01CA107, 2002-Ohio-2680, citing *Seventh Urban, Inc. v. Univ. Property Dev., Inc.* (1981), 67 Ohio St.2d 19, 423 N.E.2d 1070.

{¶ 10} R.C. 3105.011 sets forth the jurisdiction of the domestic relations divisions of the common pleas courts as follows: "The court of common pleas[,] including divisions of courts of domestic relations, has full equitable powers and jurisdiction appropriate to the determination of all domestic relations matters." "This section limits the jurisdiction of the domestic relations division to the determination of domestic relations matters." *Lisboa v. Karner*, 167 Ohio App.3d 359, 2006-Ohio-3024, 855 N.E.2d 136, ¶6.

{¶ 11} Although R.C. 3105.011 does not define "domestic relations matters," the Ohio General Assembly set forth the jurisdiction of the domestic

relations divisions of the various common pleas courts in Ohio in R.C. 2301.03. As recognized by the Fifth District, "the Ohio General Assembly was not consistent in its enabling language [of R.C. 2301.03] and tailored the jurisdictions of the domestic relations and juvenile courts to the needs and/or desires of the specific county." *Walters*, supra. Thus, the jurisdiction of Ohio's domestic relations courts may vary from county to county.

{¶ 12} With respect to Cuyahoga County, R.C. 2301.03(L)(1) provides that domestic relations court judges in Cuyahoga County "have all the powers relating to all divorce, dissolution of marriage, legal separation, and annulment cases * * *." Thus, with respect to the domestic relations court of Cuyahoga County, "domestic relations matters" within the purview of R.C. 3105.011 is limited to those matters set forth in R.C. 2301.03(L)(1).

{¶ 13} The Franklin County Court of Appeals reached a similar conclusion in *Levy v. Levy* (May 2, 1978), 10th Dist. No. 77AP-918. In that case, Doreen Levy cohabitated with, but was not married to, Simon Levy. She sought an equitable division of property between them, which included considering the substantial money and services she had provided to Simon and his company. She brought her claim in domestic relations court, and the trial court dismissed for lack of jurisdiction. The appeals court affirmed. It noted that R.C. 3105.011 confers jurisdiction over "domestic relations matters" in the domestic relations divisions of the common pleas courts. It

further found that R.C. 2301.03(A) defines the jurisdiction of the domestic relations division of the Franklin County Common Pleas Court as including: "all powers relating to juvenile courts * * * all paternity proceedings * * * and all divorce, alimony, and annulment cases." It concluded that with respect to the domestic relations court in Franklin County, "'domestic relations matters' within the purview of R.C. 3105.011 [are] limited to those matters set forth in R.C. 2301.03(A)." Thus it concluded that because Doreen's claim did not involve a "domestic relations matter," it could not be brought in the domestic relations court.[2]

{¶ 14} Likewise here, as the interstate petition for child support was not related to a divorce, dissolution of marriage, legal separation, or annulment, the only matters per R.C. 2301.01(L)(1) over which the Cuyahoga County domestic relations judges have jurisdiction, the case did not constitute a "domestic relations matter" within the contemplation of R.C. 3105.011. Accordingly, the domestic relations court did not have jurisdiction over the case[3] and, hence, its support order was void ab initio. We therefore reverse

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[2]Conversely, in *Walters*, supra, the Fifth Appellate District held that the domestic relations court of Licking County *did* have jurisdiction to hear a custody matter involving a child of unmarried parents because the enabling legislation of R.C. 2301.03(S), setting forth the jurisdiction of the Licking County Domestic Relations Court, provided that the court had jurisdiction to determine "the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation."

[3]"[T]he domestic relations court has no jurisdiction with reference to an award of

and remand with instructions to the domestic relations court to vacate its order.[4]

Reversed.

Costs waived.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate be sent to said court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

CHRISTINE T. McMONAGLE, PRESIDING JUDGE

MELODY J. STEWART, J., and
COLLEEN CONWAY COONEY, J., CONCUR

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child support which is not given to it by statute * * *." *Bantz v. Bantz* (Feb. 10, 1993), 2nd Dist. No. 92-CA-0073.

[4]Under R.C. 2151.23(B)(3), which provides that the juvenile court has original jurisdiction under the Uniform Interstate Family Support Act, this case would be properly brought in juvenile court.