***Rubenstein v. Commissioner, 134 T. C. 266 (2010)***

In Rubenstein v. Commissioner, the U. S. Tax Court ruled that Scott Rubenstein, who received a condominium from his insolvent father, was liable as a transferee for his father's unpaid federal income taxes. The court held that the transfer was constructively fraudulent under Florida's Uniform Fraudulent Transfer Act (FUFTA), as the father received no equivalent value for the property. This decision underscores that homestead exemptions do not shield property from federal tax collection efforts, impacting how such transfers are viewed under state fraudulent transfer laws in the context of federal tax liabilities.

**Parties**

Scott E. Rubenstein, the petitioner and transferee, represented himself pro se. The respondent was the Commissioner of Internal Revenue, represented by Timothy Sloane.

**Facts**

Scott Rubenstein lived with and cared for his father, Jerry Rubenstein, in Florida. In 2002, Jerry purchased a condominium in Delray Beach, Florida, for $35,000, where he and Scott resided. On February 21, 2003, Jerry transferred the condominium, valued at $41,000, to Scott for $10 and "other good and valuable consideration. " At the time of the transfer, Jerry was insolvent and owed $112,420 in federal income taxes, penalties, and interest for the years 1994 through 2002. Scott was aware of his father's insolvency. Prior to the transfer, the IRS had rejected Jerry's offer-in-compromise for his tax liabilities, calculating his reasonable collection potential (RCP) as $34,475 and assigning zero net realizable equity to the condominium. In 2004, Scott mortgaged the condominium, and the IRS filed a notice of federal tax lien against Jerry.

**Procedural History**

The IRS determined Scott had transferee liability of $44,681 plus interest for Jerry's unpaid taxes from 1998 through 2002. Scott petitioned the U. S. Tax Court for a redetermination of this liability. The court's standard of review was de novo. The Commissioner conceded that the notice of transferee liability was in error to the extent it exceeded $41,000 plus interest.

**Issue(s)**

Whether the transfer of the condominium from Jerry Rubenstein to Scott Rubenstein was constructively fraudulent under Florida's Uniform Fraudulent Transfer Act (FUFTA), specifically under Fla. Stat. Ann. sec. 726. 106(1)?

Whether the Commissioner is equitably estopped from asserting transferee liability against Scott Rubenstein due to the IRS's prior determination of zero net realizable

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equity in the condominium for calculating Jerry's reasonable collection potential?

**Rule(s) of Law**

Under Fla. Stat. Ann. sec. 726. 106(1), a transfer by a debtor is fraudulent as to a creditor if the debtor did not receive a reasonably equivalent value in exchange for the transfer and was insolvent at the time of the transfer or became insolvent as a result of it. "Value" is defined under Fla. Stat. Ann. sec. 726. 104(1) as property transferred or an antecedent debt secured or satisfied, but does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support.

Transferee liability under 26 U. S. C. sec. 6901(a) allows the Commissioner to assess and collect from a transferee the transferor's existing tax liability, with the existence and extent of the transferee's liability determined by state law, in this case, Florida law.

**Holding**

The court held that the transfer of the condominium was constructively fraudulent under Fla. Stat. Ann. sec. 726. 106(1) because Jerry did not receive reasonably equivalent value in exchange for the transfer and was insolvent at the time. The court also held that the condominium was not "generally exempt under nonbankruptcy law" within the meaning of the FUFTA because it was subject to judicial process by the United States for the collection of federal income tax liabilities. Consequently, Scott Rubenstein was liable as a transferee for $41,000 plus interest for Jerry's unpaid tax liabilities.

The court further held that the Commissioner was not equitably estopped from asserting transferee liability against Scott due to the IRS's prior determination of zero net realizable equity in the condominium.

**Reasoning**

The court reasoned that the condominium was not "generally exempt under nonbankruptcy law" under the FUFTA because it was subject to judicial process by the United States for tax collection, as provided under 26 U. S. C. secs. 7403(a) and 6331(a). The court relied on the policy of the Uniform Fraudulent Transfer Act (UFTA), which the FUFTA mirrors, to protect a debtor's estate from depletion to the prejudice of creditors. The court interpreted the UFTA's official comments to mean that property is not "generally exempt" as to a creditor who can reach it through judicial process, thus falling within the UFTA's definition of "asset. "

Regarding the value received by Jerry, the court found that Scott's caregiving did not constitute "reasonably equivalent value" under the FUFTA, as it did not involve the transfer of property or the satisfaction of an antecedent debt. The court noted that Florida law presumes no obligation for a parent to pay a child for services

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rendered at home, and Scott did not overcome this presumption with evidence of a special contract or promise.

On the issue of equitable estoppel, the court found that Scott failed to prove the necessary elements, including detrimental reliance and affirmative misconduct by the government. The court emphasized that the IRS's prior determination of zero net realizable equity in the condominium for calculating Jerry's RCP did not constitute a misrepresentation or misconduct sufficient to invoke estoppel.

**Disposition**

The court affirmed the Commissioner's determination of transferee liability against Scott Rubenstein in the amount of $41,000 plus interest, to be computed under Rule 155.

**Significance/Impact**

Rubenstein v. Commissioner clarifies that homestead property is not "generally exempt under nonbankruptcy law" for purposes of state fraudulent transfer laws when it comes to federal tax collection efforts. This ruling has significant implications for how such transfers are treated under state law in the context of federal tax liabilities, emphasizing that federal tax liens can reach homestead property. The decision also underscores the stringent requirements for invoking equitable estoppel against the government, particularly in tax cases, and reaffirms the policy of protecting creditors' rights under the UFTA and its state counterparts.

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