

**NOT DESIGNATED FOR PUBLICATION**

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2011 CA 1540

SUCCESSION

OF

ARTHUR J. GUILLOT, JR.

Judgment Rendered: March 23, 2012

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Appealed from the  
Twenty-Second Judicial District Court  
In and for the Parish of St. Tammany, Louisiana  
Trial Court Number 2010-30041

Honorable William J. Burris, Judge

\* \* \* \* \*

David J. Lukinovich  
Carl J. Servat, III  
Carla H. Sibille  
Harahan, LA

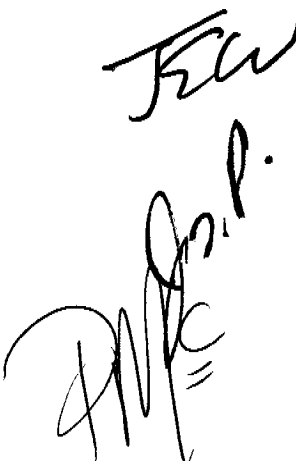
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Janine Marie Guillot and  
Stacey Guillot Olson

\* \* \* \* \*

BEFORE: PETTIGREW, McCLENDON, AND WELCH, JJ.



WELCH, J.

Janine Marie Guillot and Stacey Guillot Olson, heirs and legatees of the decedent, Arthur J. Guillot, Jr., appeal a judgment of possession in favor of Vernell Allen Guillot, the decedent's surviving spouse and legatee. For reasons that follow, we vacate the judgment in accordance with Uniform Rules—Courts of Appeal, Rule 2-16.1(B) and remand for further proceedings.

Arthur Guillot died on December 12, 2009. On January 19, 2010, Vernell Guillot filed a petition to file and execute the notarial will and codicil of Arthur Guillot and to be appointed the independent executrix of the estate, and an affidavit of death, domicile, and heirship. On January 20, 2010, the trial court ordered that the last will and testament of Arthur Guillot dated September 21, 2000, and the codicil thereto dated May 24, 2007, be probated; authorized the independent administration of Arthur Guillot's estate; and ordered letters of independent executorship be issued recognizing and confirming the appointment of Vernell Guillot as the independent executrix of the succession.

On May 9, 2011, Vernell Guillot filed a sworn detailed descriptive list of assets and liabilities of the estate of Arthur Guillot, a petition for possession, and an annual account of the independent executrix. On May 11, 2011, the trial court signed a judgment of possession granting the relief requested in the petition for possession. From this judgment, Janine Guillot and Stacey Olson appeal, seeking to change the classification of assets in the judgment of possession from community to co-owned in indivision and to change the amount of a reimbursement claim made by Vernell Guillot against the succession.

Ordinarily, the issues raised by the appellants would have been addressed at a contradictory hearing. However, in this case, there was no contradictory hearing; the judgment of possession was rendered *ex parte*. Under the provisions of La. C.C.P. art. 3061, a judgment of possession may only be rendered and signed, *ex*

*parte*, if after examining the petition for possession, the record of the proceeding establishes that the petitioner is clearly entitled to the relief prayed for. Based on our review of the record, Vernell Guillot was not entitled to the judgment of possession at the time she obtained it.

Pursuant to the codicil of Arthur Guillot dated May 24, 2007, the executrix, Vernell Guillot, was authorized to act as independent executrix. As such, the administration of the succession was governed by the provisions of La. C.C.P. art. 3396, *et seq.* Pursuant to La. C.C.P. art. 3396.18(B), a successor shall not be placed in possession of property without the filing of an inventory or sworn detailed descriptive list of assets and liabilities. Additionally, pursuant to La. C.C.P. art. 3396.19, unless the heirs and legatees waive a final account, the independent administrator must file a final account with the court, which must comply and be served in accordance with the provisions of La. C.C.P. art. 3331, *et seq.*, and thereafter, the account must be homologated by the court. The record does not reveal that the heirs or legatees waived the accounting, that they received proper notice of the account in accordance with La. C.C.P. art. 3335, or that any of the procedures set forth in La. C.C.P. art. 3331, *et seq.* were complied with prior to the trial court rendering and signing the judgment of possession. Therefore, we must vacate the May 11, 2011 judgment of possession and remand this matter for further proceedings.

The assessment of all costs of this appeal will await final disposition of this matter.

**VACATED AND REMANDED.**