

The Doctrine of Undue Influence

In 1966, Ralla Klepak, an attorney, met Virgil Robert Woodruff when she represented him in a criminal misdemeanor proceeding. Although their relationship began as attorney and client, it developed into one of friendship. They dined, attended operas, and vacationed together. Prior to his death, Woodruff retained Klepak in her capacity as an attorney to represent his interests in various legal and personal matters.

In October 1973, Woodruff purchased a condominium unit in the John Hancock Building on North Michigan Avenue in Chicago. Klepak represented Woodruff in the purchase of the condominium. At the same time, Klepak represented Woodruff in establishing a land trust that provided that the beneficial interest in the condominium would remain Woodruff's for his life and then pass to Klepak upon his death. The Lake Shore Bank was named as trustee of the trust. Klepak notarized the land trust agreement while they were at a restaurant. Woodruff died on May 29, 1984, at the age of 54. He was a bachelor, had never married, and had no living issue. His only heirs were two maternal aunts and a paternal cousin. Two days after Woodruff's death, Klepak delivered a certified copy of his death certificate to the Lake Shore Bank. Klepak took possession of the condominium shortly after Woodruff's death and has had sole use and possession of the premises since that time. William L. Klaskin, who was named administrator of Woodruff's estate, brought this action to recover the condominium from Klepak. The trial court held in favor of the estate. The appellate court reversed. The estate appealed.

Did Ralla Klepak, as an attorney, rebut the presumption of undue influence that arose from this transaction?

Transactions between attorneys and clients are closely scrutinized. When an attorney engages in a transaction

with a client and is benefitted thereby, a presumption arises that the transaction proceeded from undue influence. Once a presumption is raised, the burden shifts to the attorney to come forward with evidence that the transaction was fair, equitable, and just and that the benefit did not proceed from undue influence. Courts require clear and convincing evidence to rebut this presumption.

Some of the factors that the Supreme Court of Illinois deemed persuasive in determining whether the presumption of undue influence has been overcome include a showing by the attorney (1) that he or she made a full and frank disclosure of all relevant information, (2) that adequate consideration was given, and (3) that the client had independent advice before completing the transaction. In this case, the court evaluated the evidence adduced at trial in light of these factors and concluded that Klepak failed to overcome the presumption of undue influence. The court held that Klepak never informed Woodruff of the legal consequences of naming her as beneficiary. The court also concluded that Klepak gave no consideration for being named as beneficiary and never advised Woodruff to seek independent legal advice after learning that she was named as beneficiary.

The state supreme court held that Ralla Klepak did not rebut the presumption of undue influence that arose from the transaction at issue in this case. The court reversed the judgment of the appellate court and affirmed the judgment of the trial court. [*Klaskin v. Klepak*, 534 N.E.2d 971 (IL 1989)]

1. Did Ralla Klepak act unethically in this case?
2. Should there be a presumption that transactions between an attorney and a client have been based on undue influence? Do you think there was actual undue influence in this case?