***Benjamin v. Lindner Aviation, Inc.* –** **A Look at Property Law Classification**

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**Facts**

Iowa’s State Central Bank took possession of an airplane when the owner defaulted on his loan in April of 1992 (*Benjamin v. Lindner Aviation*, n.d.). After repossessing the plane, the bank took the plane to Lindner Aviation for a routine inspection. Heath Benjamin was the employee who conducted the inspection.

As part of the annual inspection, Benjamin took off panels from the underside of the wing. Upon doing so, he discovered “two packets approximately four inches high and wrapped in aluminum foil” (*Benjamin v. Lindner Aviation*, n.d.). He removed the packets, unwrapped the foil, and found paper currency tied in string and wrapped in handkerchiefs. Most of the currency was 20 dollar bills with mint dates in the 1950s and 60s. In total, more than $18,000 was hidden inside the wing.

After taking one packet of money to his Jeep, Benjamin called his supervisor and offered to divide the money with him. The supervisor in turn reported the money to Lindner Aviation’s owner who immediately contacted the Iowa Department of Criminal Investigation and was given to the local town police department.

Upset, Benjamin filed an affidavit with the county auditor claiming to be the finder of the currency. He claimed provisions of Iowa Code chapter 644 gave him the right to at least a portion of the money. Lindner Aviation and State Central Bank also filed claims to the money. Iowa Code chapter 644 says “if a true owner does not claim the property within 12 months, the right to the property vests in the finder” (*Code of Iowa*, 1993). Notices were posted and no one came forward the next year.

Seeking full right to the property, Benjamin filed a declaratory judgment action against Lindner Aviation and the bank. The case went to court, and the district court held that chapter 644 applies only to lost property and the money was mislaid property. The court did give Benjamin a 10 percent finder’s fee for finding the money. Chapter 644.13 of Iowa Code says “a finder is entitled a 10 percent of the value of the lost property as a reward” (*Code of Iowa*, 1993). The rest of the money was given to the bank.

Benjamin appealed the decision, claiming that chapter 644 governs the “disposition of all found property” and that any common law distinctions between various types of found property are no longer valid. But even if common law classes of found property were still to be used, Benjamin argued that the property should have been classified as a treasure trove or lost/abandoned property rather than mislaid.

Both State Central Bank and Lindner Aviation cross-appealed. Lindner Aviation claimed that if the money is mislaid property than it is entitled to the money as it was the owner of the premises where the money was found. Lindner argued it was the finder, not Benjamin, because Benjamin was an employee. State Central Bank claimed that it owned the premises where the money was found, the airplane itself, and that no one is entitled to a finder’s fee because chapter 644 does not apply to mislaid property.

**Issue**

Was the property mislaid, lost, abandoned, or a treasure trove? Does Benjamin have any rights to the found currency?

**Holding**

The property was mislaid. No, Benjamin does not have any claim under common law or Iowa Code chapter 644 to the money.

**Reasoning**

When deciding the rights Benjamin had to the found currency, the court had to decide what category the found property fell into. There are four types of found property (Beatty, 2007):

* *Abandoned property* is something that the owner has knowingly discarded because he no longer wants it. A finder is permitted to keep abandoned property, provided he can prove that the owner intended to relinquish the rights. An example would be a shirt that is thrown into the garbage.
* *Lost property* is something accidentally given up. The finder of lost property has rights superior to everyone except the true owner. If the true owner finds his property, the property must be given back. If not, the finder may keep it. An example of lost property would be a wallet that slips out of a man’s pocket.
* *Mislaid property* is something that the owner has intentionally placed somewhere and forgotten. The finder gets no rights in property that has been mislaid. If the true owner can’t be located, the mislaid property now belongs to owner of the property on which it was found. An example of mislaid property would be a professor who sets her phone on a desk in a classroom and then forgets about it.
* *Treasure trove* consists of currency and/or coins hidden by the owner so long ago that the owner is probably dead or undiscoverable.

The Iowa Supreme Court believed there was enough evidence to classify the property as mislaid. The money was found “carefully wrapped and concealed in a location that was accessible only by removing a panel” (*Benjamin v. Lindner Aviation, Inc.* – Case Brief, n.d.). It is likely that the original owner of the money had placed it there in order to keep it safe, and because the money was less than 35 years old it could not meet the antiquity requirements of a treasure trove finding.

The Iowa Supreme Court affirmed that the premises where the mislaid property was found was the airplane itself because if the owner ever came looking for the money they would search for the airplane. Therefore, State Central Bank was awarded possession of the found currency. The Supreme Court reversed the district court’s decision to award Benjamin a finder’s fee because Iowa Code chapter 644.13 states that a finder fee is only given to those who locate lost property.

References

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