

FTR Farms, Inc. v. Rist Farm, Inc.

Case Number

S-19-0438

Case Audio

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Call Date

March 3, 2020

Case Time

9:00 AM

Court Number

Richardson

Case Location

Lincoln

Court Type

District Court

Case Summary

S-19-0438 FTR Farms, Inc. (Appellee) v. Rist Farm, Inc. (Appellant) & Eugene Wesley Dowell, Mary L. Dowell, and Michael R. Dunn, Trustee (Appellees)

Richardson County District Court, Judge Julie D. Smith

Attorneys: Jeffery W. Davis (Smith Schafer Davis Gaertig LLC, for Appellee) ; John Hahn (Wolfe Snowden Hurd Ahl Sitzman Tannehill & Hahn, LLP, for Appellant); Michael R. Dunn (Halbert, Dunn & Halbert LLC, for Appellees)

Civil: Real Property; Partition in kind, Partition by sale

Proceedings Below: FTR brought a partition action against Rist. FTR and Rist each owned an undivided one-half interest as tenants in common in a 311 acre tract of farmland. Eugene and Mary Dowell held a purchase money security interest through a deed of trust on the land for the remaining purchase price of the property. The court adopted the recommendation of the referee that the land could not be partitioned in kind without great prejudice to one of the owners. The court ordered partition by sale. An auction was held and the land sold for \$1,620,000. The referee moved to confirm the sale, which the court confirmed.

Issues: Appellant assigns that the district court erred in 1) deciding that it did not have authority to award owelty to make partition in kind equitable; 2) ordering partition by sale without finding that partition in kind would greatly prejudice both owners; and 3) failing to consider options for partition in kind other than what was proposed by Appellant.

Schedule Code

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