

3/9/06

RICKY M. BAUER, Personal
Representative of the Estate
of Donald M. Morrison

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IN THE

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MARYLAND TAX COURT

vs.

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REGISTER OF WILLS FOR
HOWARD COUNTY

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05-EI-OO-0055

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MEMORANDUM OF GROUNDS FOR DECISION

The Petitioners, Ricky and Leslie Bauer (the Bauers) contest an assessment of inheritance tax on the value of a home they built on land, which had been gifted by Donald Morrison.

The facts are not disputed. In 1990 Mr. Morrison made an unrecorded parcel gift of one acre of the 100 acres of his farm to the Bauers. Mr. Morrison joined the Bauers in obtaining a mortgage for the construction of the home. Reserving full powers on June 26, 1998, Mr. Morrison conveyed a life estate of the entire 100 acre farm to himself with remainder to the Bauers. This deed was recorded in the Land Records of Howard County.

A second deed was recorded on February 25, 2003, which conveyed the entire farm (100 acres) to Mr. Morrison and the Bauers as joint tenants with right of survivorship. Mr. Morrison died on June 5, 2005.

There is no dispute that the 2003 deed was a transfer of property "in contemplation of death," and there is agreement that inheritance tax is due on the 99 acres of the farm other than the one acre, which was gifted to the Bauers in 1990. The Bauers take the position that, at the time of Mr. Morrison's death, they already owned the one acre

and the home they built. The property was gifted not inherited, and they believe the tax is applicable only to the other unimproved 99 acres.

Section 5-103 of the Real Property Article of the Annotated Code provides:

“§ 5-103. Assignment, grant, or surrender of interest in property.

No corporeal estate, leasehold or freehold, or incorporeal interest in land may be assigned, granted, or surrendered, unless it is in writing signed by the party assigning, granting, or surrendering it, or his agent lawfully authorized by writing, or by action and operation of law.”

This statute follows the requirements of the statute of frauds, and we have not been provided with a viable exception. The oral gift to the Bauers in 1990 was not an effective conveyance of real property.

Accordingly, the Court will pass an Order affirming the Respondent’s determination of the inheritance tax due.