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Insights

Estate Sales and Judgment Liens: What Heirs Need to Know

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When a loved one passes away, selling their real estate and distributing the sales proceeds can seem like a straightforward way to distribute assets among heirs. However, many families are surprised to learn that personal debts or judgments against one beneficiary can interfere with the sale—even if that beneficiary isn't listed on the title.

This issue is not uncommon, especially in probate cases involving adult children who have judgments or liens recorded against them. Understanding how this happens—and how to prevent it—can save significant time, money, and stress during an already emotional process.

How Judgment Liens Work in Probate

When a beneficiary has a judgment entered against them—whether due to unpaid credit card debt, a personal injury lawsuit, back taxes, or another civil matter—that judgment can attach to any real property interest they acquire through inheritance. This is true even if the judgment has nothing to do with the deceased person or the estate itself.

Under Florida law, once the beneficiary's interest in the inherited property vests—typically upon the decedent's death, subject to estate administration—a valid, recorded judgment in the same county can become a lien on their share of the property. This lien acts as a cloud on title and can create significant problems when the estate seeks to sell the property or distribute proceeds. Title companies will require that the judgment be satisfied, settled, or formally released before they issue a title insurance policy, even if the judgment only affects one of multiple heirs.

A Common Example

Consider the following scenario:

Gloria dies and leaves her Florida rental home equally to her three children. Her son, Anderson, has a $20,000 civil judgment against him from several years ago. Although Anderson is not listed on the deed, he is a legal heir

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under the probate estate. When the personal representative lists the home for sale, the title company refuses to issue clear title unless Anderson's judgment is satisfied or otherwise resolved.

Understandably, the family is confused. Why should Anderson's personal debt affect the sale of Gloria's home? The answer lies in how Florida treats the transfer of title to heirs through probate. Once Anderson became a partial owner of the property—even briefly—the judgment became relevant.

Solutions and Preventative Measures

The good news is that there are legal strategies to resolve or avoid these issues. Some options include:

- **Obtaining a court order determining homestead or exempt property.** In some cases, Florida's constitutional homestead protections or statutory exemptions can protect the property from creditors.
- **Negotiating a partial payoff or release.** Sometimes, the judgment creditor may be willing to accept a reduced amount or issue a partial release to allow the sale to proceed.
- **Filing a quiet title action.** If a judgment is improperly attaching, or if there's a dispute about ownership, a quiet title lawsuit may be necessary to clear the title.
- **Using disclaimers.** An heir with known creditor issues may be able to disclaim their interest in the property—effectively walking away—so that it never becomes subject to lien attachment. In Florida, this is governed by the Florida Uniform Disclaimer of Property Interests Act.

It is essential to consult with experienced probate and real estate counsel early in the process. Once a contract is signed or a closing is scheduled, these issues can cause significant delays or derail the sale entirely.

What This Means for You

If you are serving as a personal representative or expect to inherit real estate in Florida, understanding the implications of judgment liens is essential to ensuring a smooth estate administration and sale process. The presence of a judgment against even one heir can significantly delay or derail a closing if not addressed properly. Here are steps you can take to protect the estate and avoid unnecessary complications:

- **Conduct a Comprehensive Lien and Judgment Search Early.** Before listing the property for sale or making distributions, have your attorney run a lien and judgment search on all named beneficiaries. Identifying potential problems early allows time to explore resolutions—such as payoffs, releases, or disclaimers—before a buyer is involved.
- **Strategize the Method of Transfer with Legal Counsel.** The way property is conveyed—whether through a personal representative's deed, as part of a specific bequest, or via intestate succession—can affect when and how creditor claims attach. In some cases, selling the property directly through the estate may streamline title clearance. In others, formal court orders or disclaimer planning may be more effective. An experienced probate or real estate attorney can help determine the most appropriate course of action based on the facts and the structure of the estate plan.
- **Be Proactive—Don't Wait Until the Contract Stage to Resolve Title Issues.** Attempting to address a judgment lien after the property is under contract can lead to delayed closings, renegotiations, or even termination of the sale. Buyers expect marketable title, and title insurers will not overlook recorded liens—even if they stem from another heir's personal debt. Taking action during probate administration, before listing the property, ensures you have time to negotiate with creditors, obtain necessary releases, or pursue court relief if required.

At Lowndes, we regularly assist clients navigating these exact challenges. Whether you're administering an estate, buying inherited property, or need to resolve a title cloud, we're here to help.

If you have questions or need assistance with an estate-related property matter, please contact our office to schedule a consultation.