

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 09-7057

September Term, 2010

FILED ON: NOVEMBER 16, 2010

BETTY B. MURCHISON, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF
JOHN P. MURCHISON, JR., DECEASED,
APPELLANT

v.

INTER-CITY MORTGAGE CORPORATION PROFIT SHARING AND PENSION PLANS, ET AL.,
APPELLEES

Appeal from the United States District Court
for the District of Columbia
(No. 1:98-cv-00436)

Before: TATEL and GARLAND, *Circuit Judges*, and WILLIAMS, *Senior Circuit Judge*

J U D G M E N T

This appeal from a judgment of the United States District Court for the District of Columbia was considered on the record and on the briefs of counsel. The court has accorded the issues full consideration and has determined that they do not warrant a published opinion. *See* D.C. CIR. R. 36(d). It is

ORDERED and **ADJUDGED** that the judgment of the district court be vacated in part.

The district court erred in requiring appellant Betty Murchison, as personal representative of the estate of her deceased husband, John Murchison, Jr., to pay damages to the Inter-City Mortgage Corporation Profit Sharing Plan. No claim on behalf of the Plan was pending against the estate when the district court entered its judgment ordering payment. Although George and Jewel Murchison did initially bring counterclaims against John Murchison's estate, those claims were not pursued and were no longer part of the case when this court issued a limited remand to the district court after a prior appeal. *See Murchison v. Murchison*, 180 F. App'x. 163 (D.C. Cir. 2006). No party asked the district court for the relief it ordered, and no party defends that relief on appeal. Accordingly, we vacate the order of the district court in so far as it holds the appellant liable to the Plan for \$786,365.16.

The Clerk is directed to withhold the issuance of the mandate herein until seven days after the disposition of any timely petition for rehearing. *See* FED. R. APP. P. 41(b); D.C. CIR. R. 41(a)(1).

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Michael C. McGrail
Deputy Clerk