Florida Law Review

Volume 50 | Issue 3 Article 4

Florida's Homestead Exemption: Does This Chameleon Ever Die?

Peter Currin

COMMENT

FLORIDA'S HOMESTEAD EXEMPTION: DOES THIS CHAMELEON EVER DIE?

Snyder v. Davis, 699 So. 2d 999 (Fla. 1997)

*Peter Currin**

Petitioner was the granddaughter of testatrix who died without a surviving spouse but with a surviving adult child.[1] In her will, the testatrix devised her homestead to the Petitioner.[2] Petitioner sought a determination that, as an heir of the testatrix, the homestead exemption provided by the Florida Constitution[3] should inure to her benefit and allow the homestead to pass free from creditor claims.[4] Respondent, personal representative of the estate, argued that the petitioner was not an "heir" as defined by the Florida intestacy statutes[5] because the testatrix had a living adult son[6] who represented the sole heir.[7] The trial court determined that the petitioner did belong to the class of persons designated to be heirs by the intestacy statutes, and granted her petition.[8] The Florida Second District Court of Appeal reversed,[9] but certified a question to the Supreme Court of Florida to determine whether the homestead exemption provided by article X, section 4(b) of the Florida Constitution inures to the benefit of a lineal descendant of the decedent, who is not the decedent's true heir.[10] The

---

* To my wife, Lynn, and my son, Kelly, whose love and sacrifices made my law school experience possible. I also thank Professor D.T. Smith, who provided the inspiration for this comment, and Professor Richard Pearson, who introduced me to Torts but taught me much, much more.

1. *See* Snyder v. Davis, 699 So. 2d 999, 1000 (Fla. 1997).

2. *See id.*

3. FLA. CONST. art. X, § 4(a) ("There shall be exempt from forced sale . . . and no judgment . . . shall be a lien upon . . . the following property owned by a natural person: (1) a homestead . . . .").

4. *See Snyder*, 699 So. 2d at 1000.

5. *See* FLA. STAT. § 731.201(18) (1997) (defining "heirs" as "those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent"); *see also* FLA. STAT. § 732.103 (1997) (delineating the categories of persons who constitute potential heirs under intestacy).

6. Florida laws of intestate succession provide that inheritance shall be "per stirpes." *See* FLA. STAT. § 732.104 (1997).

7. *See Snyder*, 699 So. 2d at 1001.

8. *See id.*

9. *See id.*

10. The precise certified question before the court was: "Whether Article X, Section 4, of the Florida Constitution exempts from forced sale a devise of a homestead by a decedent not survived

Supreme Court of Florida reversed and HELD, the term "heirs" as used in the constitutional homestead provision includes devisees, and encompasses any family members in the class of persons categorized in the Florida intestacy statutes.[11]

The constitutional provision protecting homestead property from forced sale by a decedent's creditors[12] first appeared in article IX of the Florida Constitution of 1868.[13] The provision has been modified and amended several times since its introduction, and is now located in article X, section 4(b).[14] The homestead exemption and the difficulty associated with its many applications have been the subject of numerous commentaries throughout the years.[15] The extent to which the homestead exemption should inure to protect a devisee taking property by will is merely the latest homestead exemption puzzle facing practitioners in Florida.

The Supreme Court of Florida resolved much confusion surrounding the homestead exemption when it decided *Public Health Trust v. Lopez*[16] in 1988. In *Lopez*, the decedent left her homestead to her three adult

---

by a spouse or minor child to a lineal descendant who is not an heir under the definition in section 731.201(18), Florida Statutes (1993)?" Snyder v. Davis, 681 So. 2d 1191, 1193 (Fla. 2d DCA 1996). The instant court divided the question into two issues: first, whether devisees are entitled to the homestead exemption protection even though the property has not passed via intestacy, and if so, how to define the class of devisees entitled to the exemption's protection. *See Snyder*, 699 So. 2d at 1002-04.

11. *See Snyder*, 699 So. 2d at 1005.

12. The Supreme Court of Florida has noted that homestead property loses its character as homestead as soon as the property owner dies, unless the recipient of the property qualifies for their own homestead exemption. *See* Wilson v. Florida Nat'l Bank & Trust Co., 64 So. 2d 309, 313 (Fla. 1953). In other words, art. X, § 4(b) does not technically extend the property's homestead status. It is the exemption's protection against forced sale by creditors of the decedent that will survive when the requirements of art. X, § 4(b) are satisfied. Of course, determining precisely when these requirements are satisfied is the subject of this Case Comment. It is also pointed out that an heir taking homestead property under intestacy, or a devisee of homestead property, who qualifies for homestead exemption status on his own is only protected from forced sale by his own creditors, and not those of the decedent. *See* FLA. CONST. art. X, § 4(a). That is, the inurement provision extending the protection from the decedent's creditors and the exemption status of the new owner operate independently from one another. *Compare* FLA. CONST. art. X, § 4(a) *with* FLA. CONST. art. X, § 4(b).

13. *See* Harold B. Crosby & George John Miller, *Our Legal Chameleon: The Florida Homestead Exemption: I-III*, 2 U. FLA. L. REV. 12, 14 n.10 (1949).

14. *See id.*

15. *See id.* at 12-13 (describing the homestead exemption as a "chameleon" based on its numerous applications); *see also* Rohan Kelley, *Homestead Made Easy: Part I: Understanding the Basics*, FLA. B.J., Mar. 1991, at 17 (comparing the homestead exemption to the "midst and darkness of Chaos"). The exemption from forced sale at issue in *Snyder* should not be confused with the homestead tax exemption in art. VII, § 6(a), or with the homestead exemption in art. X, § 4(c) which limits the ability of a homeowner to devise his/her property when survived by a spouse and/or a minor child.

16. 531 So. 2d 946, 951 (Fla. 1988).

children, who lived with the decedent at the time of her death.[17] The decedent's personal representative petitioned the court to grant the property the protection of the homestead exemption.[18] A creditor of the estate opposed the petition, arguing that the longstanding public policy justifications for the constitutional exemption did not support its use to protect nondependent children from the creditors of the estate.[19] The trial court granted the creditor's motion, but the Florida Third District Court of Appeal reversed, ruling that an heir's dependence on the decedent has no impact on whether the homestead exemption should inure to the benefit of the decedent's heirs.[20]

The Supreme Court of Florida affirmed the opinion of the appellate court,[21] based on public policy and the underlying purpose of the homestead exemption, which is to provide a broad protection to homeowners and their heirs.[22] The Court also referenced the 1984 amendment to the homestead exemption provision, which relaxed the exemption's eligibility requirements from "head of a family" to "a natural person,"[23] showing a trend toward expanding rather than limiting the exemption.[24] Finally, the Court applied traditional rules of statutory construction to the constitutional provision, and concluded that the language providing that benefits would "inure to the surviving spouse or heirs of the owner" was clear and unambiguous, precluding any judicial attempt to incorporate a dependency requirement into the provision.[25]

---

17. *See id.* at 947. The court in *Lopez* was silent regarding whether the homestead property was passing under a will or via intestacy. However, the Third District Court of Appeal noted in a later case that the property had passed by will. *See* Bartelt v. Bartelt, 579 So. 2d 282, 284 (Fla. 3d DCA 1991).

18. *See Lopez*, 531 So. 2d at 947.

19. *See id.* at 947-48. The creditor/petitioner in *Lopez* argued that the underlying justification of the homestead exemption was to protect homeowners and members of a homeowner's family by shielding the homestead property from creditors. An inheriting family member who is not dependent on the decedent and not residing in the decedent's home would not warrant this protection. *See id.*

20. *See id.* at 947.

21. *See id.* at 951.

22. *See id.* at 948 (citing Bigelow v. Dunphe, 197 So. 328 (Fla. 1940) for the proposition that the purpose of the homestead exemption is to promote the welfare and stability of the State, by ensuring that homeowners and their heirs can live beyond the reach of creditors).

23. Despite the expansion of the 1984 amendment to the exemption provision, not all homeowners in Florida enjoy the benefits of the homestead exemption. Most importantly, art. X requires that a property be the owner's residence in order to qualify for the exemption. *See* FLA. CONST. art. X, § 4(a)(1). Other limitations (i.e., acreage limits) also apply. For simplicity, this Comment employs the term "homeowner" instead of the more technically correct "homesteader," to reference property owners whose property *does* qualify for the homestead exemption in art. X.

24. *See Lopez*, 531 So. 2d at 948.

25. *See id.* at 949. "[W]hen the language of the statute is clear and unambiguous and conveys a clear and definite meaning, there is no occasion for resorting to the rules of statutory interpretation

Three years later, the Third District Court of Appeal reinforced the durability of the homestead exemption in *Bartelt v. Bartelt*,[26] a case involving homestead property devised in a decedent's will.[27] In *Bartelt*, the respondent, son of the testator, was named as devisee of the testator's homestead under the will.[28] Petitioner, the personal representative of the estate, challenged the homestead exemption by arguing the term "heirs" in article X, section 4(b) meant the exemption could only survive when the property passed by intestacy, and not when the property passed under a will.[29]

The trial court ruled that the benefit of the exemption *did* inure to the devisee and the appellate court affirmed, citing the public policy argument outlined by the Supreme Court of Florida in *Lopez*, which favored a liberal interpretation of the homestead exemption.[30] The court also reasoned that the Florida Statutes define "heirs" as those persons entitled to receive property under the laws of intestacy, and since the devisee in that case was a lineal descendant, he belonged to that class of persons.[31] The court determined that the constitutional provision defines the class of persons to whom the exemption will inure, but does not dictate the manner in which the recipient of the property must receive title.[32]

Inquiry into the proper "devisability" of the homestead exemption took another turn in 1997, when the First District Court of Appeal decided *Walker v. Mickler*.[33] In *Walker*, the decedent's will granted a remainder interest[34] in her homestead to her grandson, although the grandson was not the decedent's closest consanguine heir.[35] Petitioner, a creditor of the estate, sought to have the exemption voided because the grandson was not a true "heir" of the decedent under Florida intestacy law, and because the

---

and construction . . . ." *Id.* (quoting Holly v. Auld, 450 So. 2d 217, 219 (Fla. 1984)).

26. 579 So. 2d 282 (Fla. 3d DCA 1991).

27. *See id.* at 283.

28. *See id.*

29. *See id.* at 284.

30. *See id.* at 283-84; *see also supra* note 22 and accompanying text.

31. *See Bartelt*, 579 So. 2d at 284; *see also supra* note 5; *infra* note 70.

32. *See Bartelt*, 579 So. 2d at 284. The court cites Kelley, *supra* note 15, at 22, in support of this proposition. *See id.*

33. 687 So. 2d 1328 (Fla. 1st DCA 1997).

34. The court held that a remainder interest qualifies for the homestead exemption. *See id.* at 1329 (citing Hubert v. Hubert, 622 So. 2d 1049 (Fla. 4th DCA 1993)). In *Hubert*, the testator's will devised a life estate in the homestead to a nonheir, and the remainder interest to one of the testator's sons. *See Hubert*, 622 So. 2d at 1049-50. A creditor of the estate challenged the use of the homestead exemption to protect the son's nonpossessory remainder interest. *See id.* at 1050. The Fourth District Court of Appeal allowed the exemption to inure to the son's benefit, based on the public policy arguments behind the homestead exemption, and the testator's intent. *See id.* at 1050-51.

35. *See Walker*, 687 So. 2d at 1328-29.

term "heirs" in the constitutional provision precluded the passing of an exemption to a "devisee" under a will.[36] The trial court ruled that the grandson's remainder interest was entitled to protection by the homestead exemption, and the creditor appealed.[37]

In upholding the trial court's ruling, the appellate court adopted the rationale of the Third District's *Bartelt* decision, finding that the homestead's passing via a will rather than intestacy was not a significant fact for consideration.[38] Addressing the more novel issue—exactly who may constitute an "heir" for purposes of the homestead exemption provision—the court defined heir as "those who may under the laws of the state inherit from the owner of the homestead."[39] The court also stated broadly that the 1984 amendment to article X, section 4 of the Florida Constitution reflected an "intent that the exemption [should] inure to whomever the homestead property passes."[40] The court continued its analysis by citing the holding and public policy arguments from *Lopez* to support its liberal application of the exemption.[41] In conclusion, the district court acknowledged the conflict between its ruling and that of the Second District in *Snyder v. Davis*.[42] The Second District certified conflict with *Snyder*, and the Supreme Court of Florida subsequently granted review to resolve the conflict.[43]

The Supreme Court of Florida, in the instant case, concluded that the use of the term "heirs" (and not "devisees") within article X, section 4(b) does not preclude application of that provision in testate situations.[44] The

---

36. *See id.*

37. *See id.*

38. *See id.* at 1329; *see also supra* note 32 and accompanying text.

39. *Walker*, 687 So. 2d at 1329 (quoting State Dep't of Health & Rehabilitative Servs. v. Trammell, 508 So. 2d 422, 423 (Fla. 1st DCA 1987) (quoting Shone v. Bellmore, 78 So. 605, 607 (Fla. 1918))).

40. *See id.* at 1330.

41. *See id.* at 1330-31; *see also supra* note 22 and accompanying text.

42. *See Walker*, 687 So. 2d at 1330-31; *see also supra* text accompanying notes 9-10.

43. *See* Walker v. Mickler, 687 So. 2d 1328 (1st DCA), *rev. granted*, 696 So. 2d 343 (Fla. 1997). The Florida Supreme Court in *Snyder* approved the First District Court of Appeal's decision in *Walker*, and quashed the Second District Court of Appeal's *Snyder* decision. *See Snyder*, 699 So. 2d at 1005-06.

44. *See Snyder*, 699 So. 2d at 1003. The court acknowledged that the threshold question of whether the homestead exemption could inure to the benefit of devisees was one of first impression. *See id.* at 1002. As the Third District Court of Appeal pointed out in *Bartelt*, the Supreme Court of Florida had already upheld the inurement of the exemption in a testate situation in *Lopez*, although the lower court opinion in *Lopez* was unclear regarding the manner in which the property had passed. *See supra* note 17. The instant court concluded that the exemption could protect property passed under a will, citing Bartelt as persuasive authority:

> When the decedent's homestead is devised to his son—a member of the class of persons who are the decedent's "heirs"—the constitutional exemption from forced

instant court then resolved the conflict between the alternative definitions of "heirs" by adopting the rationale of the First District in *Walker*.[45] The instant court labeled the *Walker* approach the "class definition," recognizing "heirs" as any member of the class of potential heirs categorized within section 732.103.[46] The court characterized the Second District's *Snyder* approach as the "entitlement definition," since it defined "heirs" more narrowly as those who would actually be entitled to inherit under the laws of intestacy, *had the decedent died intestate*.[47]

The instant court majority found the *Walker* court's reasoning persuasive and concluded that the broader "class" definition was the more desirable approach.[48] The court focused on the *Walker* definition of "heirs" as "those who may under the laws of the state inherit from the owner of the homestead,"[49] as well as the *Walker* court's general public policy arguments favoring a liberal interpretation of the homestead exemption.[50]

The majority also incorporated its own public policy argument regarding the potential impacts that the alternative approaches would have on estate planning.[51] Under the entitlement approach, a homeowner wanting to devise his or her property to a specific person (even a specific lineal descendent) could not be certain that the homestead exemption would inure to that devisee's benefit, because the question of whether that devisee was actually entitled to take under intestacy could not be answered until the homeowner's death.[52] Alternatively, the "class" definition would ensure that the homestead exemption would survive, provided the property were devised to someone within the category of potential heirs listed in section 732.103.[53] The court noted with approval that this higher degree of predictability would increase the utility of wills and discourage intestacy.[54] The two dissenting opinions in the instant case focused instead on the

---

> sale by the decedent's creditors found in Article X, Section 4(b) of the Florida Constitution, inures to that son. The test is not how title was devolved, but rather to whom it passed.

Snyder, 699 So. 2d at 1003 (quoting *Bartelt*, 579 So. 2d at 283).

45. *See Snyder*, 699 So. 2d at 1004.

46. *See id.*

47. *See id.*

48. *See id.*

49. *See id.* (quoting *Walker*, 687 So. 2d at 1329 (quoting State Dep't of Health & Rehabilitative Servs. v. Trammell, 508 So. 2d 422, 423 (Fla. 1st DCA 1987) (quoting Shone v. Bellmore, 78 So. 605, 607 (Fla. 1918))); *see also supra* note 39 and accompanying text.

50. *See Snyder*, 699 So. 2d at 1004-05; *see also supra* notes 22 & 41 and accompanying text.

51. *See Snyder*, 699 So. 2d at 1005.

52. *See id.*

53. *See id.*

54. *See id.*

historical definitions of "heirs" that the court had previously adopted,[55] and a straightforward plain language construction of article X, section 4(b).[56]

The majority's analysis uses case history and public policy arguments to support its ultimate conclusion about the correct interpretation of "heirs" in the exemption provision.[57] The majority does not, however, make any initial attempt at a plain language construction of the provision. This omission is curious because most authorities agree that outside evidence should be used for interpretation purposes only when the text of the statute or constitution is unclear or ambiguous.[58] While the court's focus on defining "heirs" does *suggest* an underlying conviction that the word is ambiguous and in need of clarification, the absence of an explicit attempt to construe the provision "on its face" is conspicuous.

The instant court adopted the term "class definition" based on the *Walker* court's conclusion[59] that a devisee, who was a lineal descendant of the homeowner, belonged to the class of persons entitled to inherit under the intestacy statutes.[60] The *Walker* court was relying primarily on previous court opinions defining "heirs" as "those who may under the laws of the state inherit from the owner of the homestead."[61] However, the meaning of this definition is less than clear. For instance, prior to a homeowner's death, a devisee/grandson (as in *Walker*) would be a potential intestate heir, and would qualify as someone who may (i.e. *could possibly*) inherit. Upon the homeowner's death, on the other hand, the devisee/grandson would not be an heir or even a potential heir, if another closer lineal descendant had

---

55. *See id.* at 1006 (Grimes, J., dissenting). Justice Grimes cited several Florida Supreme Court cases supporting the proposition that "heirs" means those who would inherit under the laws of intestacy. *See id.* (Grimes, J., dissenting). However, both the majority and the dissents agree that "heirs" must be defined based on the intestacy statutes. *Compare id.* at 1003 *with id.* at 1006 (Grimes, J., dissenting). The dividing point between the two sides seems to be deciding how literally the intestacy statutes should be applied. The majority identifies the list of potential heirs in FLA. STAT. § 732.103 and stops there. *See id.* at 1003. Justice Grimes, however, states that, according to the intestacy statutes, an individual's heirs can never be identified until that individual's death. *See id.* at 1006 (Grimes, J., dissenting) ("It is well established that heirs are determined after death, depending on who survives the testator." (citing Williams v. Williams, 6 So. 2d 275 (Fla. 1942))).

56. *See Snyder*, 699 So. 2d at 1007 (Harding, J., dissenting).

57. *See supra* text accompanying notes 49-50.

58. *See, e.g.*, Public Health Trust v. Lopez, 531 So. 2d 946, 949 (Fla. 1988); Holly v. Auld, 450 So. 2d 217, 219 (Fla. 1984).

59. A significant portion of the majority's opinion is taken straight from *Walker*. *See supra* notes 49-50. For this reason much of the analysis in this Part of the Case Comment focuses directly on the *Walker* court's opinion and reasoning.

60. *See supra* note 49 and accompanying text.

61. *Walker*, 687 So. 2d at 1329 (quoting State Dep't of Health & Rehabilitative Servs. v. Trammell, 508 So. 2d 422, 423 (Fla. 1st DCA 1987) (quoting Shone v. Bellmore, 78 So. 2d 605, 607 (Fla. 1918))).

survived the decedent. At that moment the devisee/grandson would clearly be someone who *may not* inherit under the laws of intestacy. The meaning of the definition upon which the *Walker* court relies is therefore dependent on *when* the assessment of the devisee's status as an "heir" is made.[62] While the *Walker* court seems to conclude that the inquiry should be made prior to rather than at the time of the homeowner's death, nothing in the case law on which *Walker* relies clearly supports one conclusion over the other.[63]

The instant court's use of a "class definition" also can be traced to *Bartelt*, which the *Walker* court cited as supporting authority.[64] In *Bartelt*, the Third District Court reasoned that the homestead exemption should inure to the devisee/son because he was a member of the class of persons who were the decedent's heirs.[65] Again, this proposition can be interpreted two different ways.[66] The *Walker* court failed to acknowledge the relevance of the *Bartelt* devisee's actually being entitled to inherit (or share in inheriting) under intestacy law.[67] The *Bartelt* court was not forced to choose between the "entitlement" and "class" definitions—or even recognize the existence of two approaches—because the devisee in that case qualified as an heir under either definition.[68] Furthermore, the devisee/son in *Bartelt* had a sister who was equally entitled to inherit under the intestacy statutes.[69] It is likely that the "class" referred to by the *Bartelt* court was the class of actual heirs—the decedent's son and daughter—rather than the class of potential heirs categorized within section 732.103. In short, the *Walker* court's interpretation of *Bartelt* to support a broad "class definition" is highly conclusory.[70]

---

62. In fact, because the homestead exemption status itself is not ascertained until the time of the homeowner's death, it may be most appropriate to assess the status of the devisee at that moment in time (an entitlement approach) rather than beforehand (a class definition approach). *Cf.* Wilson v. Florida Nat'l Bank & Trust Co., 64 So. 2d 309, 313 (Fla. 1953).

63. *See Walker*, 687 So. 2d at 1331 (noting that a testator should be allowed to choose who within the class of heirs should receive the homestead property and exemption). Proponents of both approaches point to the intestacy statutes as the source for defining "heirs" for purposes of the constitutional exemption provision. *See supra* note 55. However, the *Walker* court failed to acknowledge that the cases it cited did not address how to apply the laws regarding intestacy for this particular purpose.

64. *See Snyder*, 699 So. 2d at 1004 (citing *Walker*, 687 So. 2d at 1329).

65. *See Bartelt*, 579 So. 2d at 283.

66. *See supra* note 62 and accompanying text.

67. *See Bartelt*, 579 So. 2d at 284.

68. *See id.* at 283.

69. *See id.*

70. At least one commentator has asserted that *Bartelt* stands for an entitlement definition: "[t]hus, on the basis of *Bartelt*, creditors would have had rights only against homesteads that were devised to persons who would not have taken as heirs if no will existed." DAVID T. SMITH, FLORIDA PROBATE CODE MANUAL § 4.05, at 32 (1998). Curiously, the instant court quoted the eight

The instant court also incorporated the *Walker* court's arguments that the homestead exemption provision should be liberally construed based on prior case law,[71] and that constitutional intent supports a "class" definition of "heirs."[72] An important basis for the *Walker* court's conclusions about constitutional intent was the 1984 amendment to article X, which expanded the class of persons eligible to benefit from homestead exemption rights.[73] The *Walker* court pointed out that the constitution was silent regarding the intent of the homestead exemption, but concluded that the amendment "reflect[s] the intent that the exemption is to inure to *whomever the homestead property passes*."[74] It is not clear how the court justifies this proposition,[75] for it seems contradictory to the language of the provision itself.[76] Indeed, it is questionable whether the 1984 amendment supports any generalization about the intended scope of the exemption, beyond the death of the homeowner.

The instant court offered a sound public policy argument, regarding the impact that an entitlement definition might have on estate planning practitioners and their clients.[77] The class definition should increase the certainty associated with devising one's homestead property by ensuring that the homestead property will remain beyond the reach of the estate's creditors.[78] While this result may be desirable, it seems doubtful that the language and intent of article X, section 4(b) requires the kind of interpretative analysis undertaken by the majority.[79] The case law relied upon by the instant court ranges from ambiguous[80] to misguided,[81] and the court's decision effectively redrafts the constitutional exemption provision

---

sentences preceding Professor Smith's conclusion, above, in support of its decision regarding the exemption provision's viability in testate situations, but avoided the conclusion embracing an entitlement approach. *See Snyder* 699 So. 2d at 1003.

71. *See Snyder*, 699 So. 2d at 1004 (quoting *Walker*, 687 So. 2d at 1330).

72. *See id.* (quoting *Walker*, 687 So. 2d at 1330).

73. *See Walker*, 687 So. 2d at 1330.

74. *Id.* (emphasis added).

75. To support its determination of the intent behind the 1984 amendment, the court provides a footnote reference to an earlier case, *Aetna Ins. Co. v. LaGasse*, 223 So. 2d 727 (Fla. 1969). *Aetna* seems simply to highlight the distinction between the inurement of an exemption's protection against creditors of the decedent, and a subsequent new homestead exemption to protect against one's own creditors. *See LaGasse*, 223 So. 2d at 729; *see also supra* note 12.

76. For instance, a homestead property devised to a close friend would not qualify for protection against the decedent's creditors under any definition of "heirs." *See, e.g.*, State Dep't of Health & Rehabilitative Servs. v. Trammell, 508 So. 2d 422, 424 (Fla. 1st DCA 1987).

77. *See supra* text accompanying note 51.

78. *See supra* text accompanying notes 52-54.

79. *See supra* text accompanying notes 56-58.

80. *Bartelt*, for instance, is factually distinct from the instant case and constitutes only weak support for a class definition. *See supra* text accompanying notes 65-69.

81. *See supra* note 70 and accompanying text.

to read "heirs apparent" or "potential heirs."[82] The majority's use of interpretative license, instead of seeking to change the provision itself, seems to be a quick—but ultimately dangerous—way to broaden the scope of the homestead exemption's protection.

82. *See supra* text accompanying notes 59-63.