

SUPREME COURT OF LOUISIANA

No. 10-C-2059

SUCCESSION OF HARRELL

VERSUS

ERRIS-OMEGA PLANTATION, ET AL

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL
THIRD CIRCUIT, PARISH OF RAPIDES**

WRIT GRANTED. The courts have recognized that a judgment may be annulled for fraud and ill practices when (1) the circumstances under which the judgment was rendered show the deprivation of legal rights of the litigant who seeks relief and (2) enforcement of the judgment would be unconscionable or inequitable. *Calcasieu Parish School Board v. Parker*, 02-0339 (La. App 3 Cir. 10/2/02), *writ denied*. 02-2719 (La. 1/10/03), 834 So.2d 440. Plaintiffs' Petition to Annul, which must be considered on the face of the pleading in ruling on an exception of no cause of action, alleges sufficient facts to assert a cause of action under La. C.C.P. art. 2004 to annul the April 20, 2009, judgment for fraud and ill practices. Not only was the judgment rendered in plaintiffs' and counsel's absence, due in part to confusion over a continuance request, but it goes well beyond the initial pleadings by granting relief not prayed for. In addition, the record does not support the defendant's assertion that a settlement of the claims was reached by the parties. In fact, price was still at issue and the succession representative had not yet obtained court approval. Accordingly, the judgments of the court of appeal and the trial court are reversed, and the case is remanded to the trial court for further proceedings on plaintiffs' petition to annul the April 20, 2009, judgment of the trial court.