

IN RE ESTATE OF CHONG HEE

In the Matter of the Estate of CHONG HEE, Deceased

Probate Case No. 2

Trial Division of the High Court

Marshall Islands District

August 4, 1969

See, also, 5 T.T.R. 144

Motion to deny petition for letters testamentary and for order releasing inheritance. The Trial Division of the High Court, R. K. Shoecraft, Chief Justice, held that where purported will was not properly executed, petition for letters testamentary would be denied.

1. Executors and Administrators—Appointment

Where purported will filed by one petitioning for letters testamentary failed to satisfy any of the usual minimum requirements for the execution and attestation of wills and was not entitled to consideration by the court, the petition for letters testamentary should be dismissed.

2. Judges—Disqualification

Reasonable grounds for disqualification did not exist where presiding judge was a nominal party to the action at one stage of proceeding

but was, at that time, acting in another official capacity and had no interest in the outcome of the litigation but merely acted as a custodian of the property in question pending a determination of the rightful owners.

SHOECRAFT, *Chief Justice*

This matter came before the Court upon the motion of Totha Samuel moving the Court to grant, ex parte, the said Totha Samuel's previously filed MOTION TO DENY PETITION FOR LETTERS TESTAMENTARY AND FOR AN ORDER RELEASING INHERITANCE.

[1] The Court has closely examined the purported will filed in this matter by Lanimijen, now deceased, and is of the opinion that as a matter of law said purported will fails to satisfy any of the usual minimum requirements for the execution and attestation of wills and is not entitled to further consideration by this Court. The petition of Lanimijen, now deceased, for letters testamentary is therefore dismissed.

[2] The Court has, without a request from any party to do so, considered whether or not possible grounds exist which might require this Court to disqualify himself in this matter since he was a nominal party to this action at one stage of the proceedings herein. After careful consideration, the Court is of the opinion that since he was merely acting in his official capacity at that time as Attorney General and Alien Property Custodian of the Trust Territory, that he had no interest in the outcome of the litigation, and that he acted merely as the custodian of the property of the decedent pending a determination of the rightful owners of said property by the Court, reasonable grounds for disqualification do not exist and the Court should proceed with the disposition of this matter.

The only action now required of the Court is to carry into effect the INTERLOCUTORY JUDGMENT ORDER

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entered in this matter by the Honorable E. P. Furber on May 22, 1968, finding that Totha Samuel is the sole heir and next of kin of the decedent, Chong Hee.

It is hereby ordered and decreed that the said Totha Samuel is entitled to receive all of the personal property of the decedent, Chong Hee, no real property of said decedent being known to exist, and the Alien Property Custodian of the Trust Territory of the Pacific Islands, now Mr. Donald R. Tindal, is hereby authorized to turn over to the said Totha Samuel, or her attorney, pursuant to an AUTHORITY TO RECEIVE PAYMENT filed in this Court by the said Totha Samuel on December 2, 1968, all of the property of said decedent now held by the said Alien Property Custodian in his capacity as custodian of said property.

The said Totha Samuel shall be personally responsible for any property received by her under this Order, and any party claiming an interest in such property based upon a debt alleged to have been owed by the decedent, Chong Hee, may, after demand, maintain an action against the said Totha Samuel, but no such action against her shall be brought after two years from the date of this Order.

A copy of this Order shall be posted in a conspicuous place in the Courthouse and in the District Administration building at Majuro, Marshall Islands, for a period of not less than sixty (60) days from this date.