IN THE COURT OF APPEALS OF IOWA

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CLERK SUPREME COURT

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IN THE MATTER OF THE ESTATE OF WILLIAM TURNER KOONS, Deceased;	)	
MORRIS C. HURD, Executor,	)	Filed June 25, 1985
Appellant/Cross-Appellee,	)	
vs.	)	5-192
ROBERT D. KOONS and MARY K. RING,	)	84-93
Appellees/Cross-Appellants.	)	

Appeal from the Iowa District Court for Ida County - Dewie J. Gaul, Judge.

The executor of the estate appeals the district court's ruling and judgment on objections to his final report. AFFIRMED.

Morris C. Hurd, Ida Grove, Iowa, for appellant, pro se.

Laurel L. Boerner of Boerner & Jacobson, Ida Grove, Iowa, for appellees.

Considered by Oxberger, C.J., Donielson, and Schlegel, JJ.

SCHLEGEL, J.

Morris Hurd, the executor of the estate of William Koons, appeals the district court's ruling and judgment on objections to his final report. He asserts numerous grounds of error. The objectors, Robert Koons and Mary Ring, cross-appeal. They request judgment be entered against Hurd for interest allegedly lost by the estate due to Hurd's failure to deposit certain funds. We affirm.

The trial court's ruling found that executor Hurd had been delinquent in filing and paying Iowa state inheritance taxes, had failed to properly account for all the assets of the estate, had not closed the estate in the time period required by Iowa Code section 633.473, and had mismanaged administration of the estate in other respects. In its ruling and order of September 19, 1983, as amended by the ruling of November 2, 1983, the trial court required Hurd to prepare an amended probate inventory that would account for all assets of the estate. Hurd was ordered to reimburse the estate for certain amounts, and judgment in those amounts was entered against Hurd. In addition, the trial court reserved jurisdiction to determine any further liability of Hurd as shown by the ordered accounting.

Hurd appeals the trial court's ruling. With certain exceptions, Hurd does not challenge the fact finding of the trial court. Rather, he challenges the rulings on procedural grounds, raising fifteen separate issues.

On de novo review of the record, we affirm the trial court's findings of facts. We therefore proceed to address the alleged errors of law.

I. During the lengthy period that this estate has been open, the clerk of court issued a notice that Hurd was delinquent for failure to file closing papers. After a hearing, Judge Pendleton found that Hurd was not delinquent in that respect because objections had been filed and were to be tried. Hurd argues that Judge Pendleton's ruling precluded any finding of delinquency in the order being

appealed. However, given the limited nature of Judge Pendleton's hearing and ruling, it is clear that the prior ruling is not res judicata as Hurd asserts.

II. Hurd asserts that the trial court erred in entering personal judgment against him. He claims that judgment of money damages cannot be entered because the objectors only prayed for general equitable relief. This argument is without merit.

Hurd, as executor, was a fiduciary. Iowa Code § 633.3(17). He was thus subject to liability to the estate for breaches of his fiduciary duty. The liability of an executor to the estate may be determined at the hearing on his final report and objection thereto. See In re Estate of Christensen, 229 Iowa 1162, 1169, 296 N.W. 198, 201 (1941). Because the original objections listed breaches of fiduciary duty, Hurd could not have been surprised that his personal liability would be in question. Moreover, the objectors did request, in their pretrial filing of additional objections, that Hurd be charged for losses suffered by the estate. Finally, personal judgment was only entered for amounts which could be determined with some precision. In light of all these factors, there was no unfairness in the proceedings that would prevent assessment of money damages under the prayer for general relief. See Johnson v. Johnson, 188 N.W.2d 288, 291-92 (Iowa 1971).

III. The trial court's order established Hurd's liability for certain actions, but reserved jurisdiction to determine the amount of liability after a complete accounting. The order also reserved jurisdiction to determine any further relief to which a full and detailed accounting would show the estate would be entitled. Hurd claims these actions amount to a contingent judgment and are therefore void. However, under the ruling of Williams v. Bourne, 248 Iowa 189, 79 N.W.2d 751 (1956), those rulings are interlocutory judgments. Hurd can appeal them after further proceedings when the matter is fully settled.

IV. The rest of Hurd's allegations of error are without merit and need not be discussed.

V. We need not, and should not, decide the objectors cross-appeal. Their claim is preserved by the interlocutory portion of the order which provides:

> H. The Court reserves jurisdiction as to any further relief which a full and detailed accounting may show the Estate is entitled to.

AFFIRMED.