

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

EARL R. KRAMER, III,

Plaintiff,

vs.

ESTATE OF MARY T. KRAMER,
MICHELE HUDSON, WENDY THOMAS,
EXECUTORS, JAMES DANIEL LANDIS &
JAN ELIZABETH LANDIS,

Defendants.

: No. 19-0388

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: CIVIL ACTION -

: LAW & EQUITY

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: *Motion for*

: *Reconsideration*

ORDER

Before this Court is Plaintiff Earl Kramer, III's ("Plaintiff") *Motion for Reconsideration* (the "Motion"), which was filed on July 5, 2019. Despite the Court's pronouncement in its June 26th Order that Plaintiff should file its action in the orphans' court division, Plaintiff requests reconsideration and/or clarification of the Court's June 26th Order. Plaintiff appears to misunderstand the June 26th Order, as he states in his Motion that "[t]he Court erred in its ruling which suggested the Plaintiff's only remedy was to file a will contest under the Estate of Mary T. Kramer under Orphan[s'] Court Number 41-18-0670."¹ The Court's June 26th Order did not limit Plaintiff's action to a will contest. In fact, the Court specifically stated that it would not transfer the matter to the orphans' court division for fear of traversing neutral ground and determining Plaintiff's cause(s) of action.²

In the June 26th Order, the Court stated the following:

¹ Plaintiff's Motion for Reconsideration And/Or Clarification of the Order of this Court dated June 26, 2019 5 (July 5, 2019) [hereinafter "Plaintiff's Motion"].

² See *Earl R. Kramer, III v. Estate of Mary T. Kramer, et al.*, Order: Preliminary Objections 2 n.2 (June 26, 2019) ("Therefore, the Court is unwilling to transfer the case and force Plaintiff's hand by labeling the *pro*

[A]s Plaintiff Earl Kramer, III's complaint touches on both the validity of Mary T. Kramer's (the "decedent") October 31, 2018 will, which was admitted to probate on December 5, 2018, *and a breach of contract related to an obligation dischargeable at decedent's death and/or specific performance to sell real property*, this Court's civil division does not possess jurisdiction over this matter.³

Plaintiff's action was dismissed under the civil division because the contractual claim that Plaintiff's March 26th *pro se* Complaint concerns cannot be divorced from the administration of the estate. Plaintiff describes the oral contract as follows:

Plaintiff was asked to move in with his parents, including Defendant decedent Mary T. Kramer and Earl R. Kramer, Jr., to maintain the premises and make improvements, and if he did so the parents, Mary T. Kramer and Earl T. Kramer[,] Jr.[,] would leave "the premises" to Plaintiff by will.⁴

Likewise, Plaintiff requests this Court enforce "specific performance of his oral agreement."⁵ In *Mark Hershey Farms, Inc. v. Robinson*, the Pennsylvania Superior Court held that a breach of contract claim was properly filed in the trial court's civil division because the contract, which concerned the delivery of feed for dairy cattle, was not related to the administration of the estate.⁶ In this matter, Plaintiff's claim touches on the following mandatory enumerations in 20 Pa.C.S.A. § 711:

(1) Decedents' estates.--The administration and distribution of the real and personal property of decedents' estates and the control of the decedent's burial.

[. . .]

(13) Specific performance of contracts.--To enforce specifically the performance by either party of any agreement made by a decedent to purchase or sell real or personal property.

se complaint as the Court sees fit.").

³ *Id.* at 1 (emphasis added).

⁴ Plaintiff's Complaint 2 (Mar. 26, 2019).

⁵ *Id.* at 4.

⁶ See *Mark Hershey Farms, Inc. v. Robinson*, 171 A.3d 810, 815-16 (Pa. Super. Ct. 2017).

[. . .]

(17) Title to personal property.--The adjudication of the title to personal property in the possession of the personal representative, or registered in the name of the decedent or his nominee, or alleged by the personal representative to have been in the possession of the decedent at the time of his death.⁷

Additionally, Plaintiff's claim appears to concern an obligation of decedent that is dischargeable at her death, which is a claim related to the decedent's estate.⁸ Thus, the orphans' court division is the proper division.⁹

Nevertheless, in light of Plaintiff's averments in the Motion that he does not intend to contest the will,¹⁰ and to prevent any further confusion, the Court will **GRANT IN PART** Plaintiff's Motion and transfer this matter to the orphan's court division.¹¹ **The Court will issue a separate opinion under the orphans' court division addressing Defendants' Preliminary Objections.**

IT IS SO ORDERED this 17th day of July 2019.

BY THE COURT,

Eric R. Linhardt, Judge

ERL/zs

⁷ 20 Pa.C.S.A. § 711.

⁸ 20 Pa.C.S.A. § 2701.

⁹ Section 712 also allows the orphan's court division to exercise jurisdiction over ancillary matters that are closely related to matters enumerated in § 711. 20 Pa.C.S.A. § 712(3) ("The disposition of any case where there are substantial questions concerning matters enumerated in section 711 and also matters not enumerated in that section."); *accord Hart v. Wolfe*, 2019 WL 2246256, at *3 (Pa. Super. Ct. May 24, 2019).

¹⁰ Plaintiff's Motion 3.

¹¹ 42 Pa.C.S.A. § 5103(c); *accord In re Estate of Ciuccarelli*, 81 A.3d 953, 961-62 (Pa. Super. Ct. 2013).

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