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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Estate of FAZEL KHODADAD, Deceased.

MEHDI KHODADAD,  
Petitioner and Respondent,  
v.  
MOHAMMAD KHODADAD,  
Appellant and Objector.

A127142 & A129038

(Contra Costa County  
Super. Ct. No. P95-01992)

MEMORANDUM OPINION\*

These consolidated appeals arise from a probate case involving the ownership of a classic 1962 Corvette.<sup>1</sup>

Respondent Mehdi Khodadad, administrator of the estate of Fazel Khodadad, deceased, petitioned the probate court under Probate Code section 850 to order the Corvette conveyed or transferred to the estate.<sup>2</sup> The petition alleged that decedent died having a claim of title to the vehicle, which was an asset of the estate.

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\* We resolve these cases by Memorandum Opinion pursuant to California Standards of Judicial Administration, Standard 8.1.

<sup>1</sup> A127142 is an appeal from the probate court's Statement of Decision. A129038 is an appeal from a subsequent, and substantially identical, Order After Trial.

<sup>2</sup> Subsequent statutory citations are to the Probate Code.

After trial, the probate court found that the Corvette was purchased on November 6, 1993, by the Khodadad Investment Group (KIG), at decedent's direction and using decedent's funds. KIG was a corporation solely owned by the decedent. The Corvette was originally registered with the California Department of Motor Vehicles to KIG.

Subsequent to the purchase, the Corvette was purportedly transferred by Bob Hornaver, an officer of KIG, to appellant Mohammad Khodadad. On or about January 9, 1995, appellant transferred title of the car into his own name. The probate court found "that this transfer was not authorized [by the corporation], not supported by consideration, and not valid under California law. . . ."

The court found that the Corvette continues to be owned by KIG and by no other entity, and that appellant has no ownership interest in the vehicle. Since the Corvette continues to be owned by the corporation, not decedent, the court denied the petition to transfer the vehicle to the estate. The court also denied respondent's request to transfer the vehicle to its rightful owner, KIG. Because the court believed it could not order transfer of the vehicle to the estate, the court denied respondent's request under section 859 for double damages for the bad-faith misappropriation of property.

Appellant contends the probate court had jurisdiction only to determine whether decedent owned the Corvette at the time of his death, and thus the Corvette was the property of the estate, but lacked jurisdiction to determine that KIG owned the Corvette and that appellant did not.

The probate court correctly found it had jurisdiction to decide this matter because decedent, having used his personal funds to buy the Corvette, died having a claim to personal property in which title and possession were held by another. (§ 850, subd. (a)(2)(D).) The probate court correctly concluded that to decide the petition under section 850, it "necessarily had to determine ownership of the vehicle." This conclusion is correct. A probate court has jurisdiction to determine questions of ownership and title between the estate and strangers to the estate. (See, e.g., *Estate of Baumann* (1988) 201 Cal.App.3d 927, 933–934; *Richer v. Superior Court* (1976) 63 Cal.App.3d 748, 756,

overruled on unrelated ground *Kowis v. Howard* (1992) 3 Cal.4th 888, 899; see also 14 Witkin, Summary of Cal. Law (10th ed. 2005) Wills and Probate, § 355, pp. 445–446.)

Appellant also claims he was denied his right to a jury trial and his ability to raise a statute of limitations defense. Because he cites to no portion of the record where he requested leave to initiate a nonprobate civil proceeding to which a right to jury trial would attach, or attempted to raise a statute of limitations defense, he has forfeited consideration of these issues on appeal.

On the cross-appeal, respondent contends the probate court erred by not transferring the vehicle to its rightful owner, KIG. We agree with the rationale of the recent decision of *Estate of Kraus* (2010) 184 Cal.App.4th 103 (*Kraus*): the probate court has broad statutory and equitable authority to transfer property from a person who has no right to it and achieve an equitable disposition of the property. (*Id.* at pp. 112–115.) Section 850 specifically covers a decedent having a claim to personal property, title or possession of which is held by another. Decedent was the sole owner of KIG. The Corvette was purchased with his money, held by KIG; and the ownership and title improperly taken by appellant. Decedent’s estate included decedent’s ownership of KIG and the estate’s claim to the Corvette. “ ‘The probate court has general subject matter jurisdiction over the decedent’s property and as such, it is empowered to resolve competing claims over the title to and distribution of the decedent’s property.’ ” (*Kraus, supra*, 184 Cal.App.4th at p. 114.) We will thus return this matter to the probate court for consideration of its exercise of its “broad equitable powers.” (*Id.* at p. 114.) The matter can be resolved fairly and expeditiously before a court that has jurisdictional control.

Respondent also argues that, despite the fact that KIG and not the estate owns the Corvette, *Kraus* supports the probate court’s ability to award double damages under section 859 for bad-faith misappropriation of property. He is correct. Under section 859, the “statutory emphasis is not on to whom the property belongs, but whether the person in possession in bad faith wrongfully acquired it.” (*Kraus, supra*, 184 Cal.App.4th at

p. 117.) We thus also direct the probate court to reconsider the question of section 859 damages.<sup>3</sup>

The orders of the probate court are affirmed insofar as they determined that KIG, not appellant, is the owner of the vehicle at issue. The orders are reversed insofar as they denied respondent's request to transfer the vehicle to its rightful owner, KIG, and denied respondent's request for section 859 damages. This matter is remanded to the probate court for further proceedings consistent with this opinion.

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Marchiano, P.J.

We concur:

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Margulies, J.

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Dondero, J.

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<sup>3</sup> We are not suggesting how the probate court should resolve this issue.