

STATE OF MICHIGAN
COURT OF APPEALS

In re Estate of ROBERT E. BOUGHTON,
Deceased.

BARBARA CARVER, ALLAN BOUGHTON,
and CALVIN BOUGHTON,

UNPUBLISHED
September 13, 2002

Plaintiffs-Appellants,

and

ESTATE OF ROBERT E. BOUGHTON,
Deceased,

Plaintiff-Appellee,

v

DENNIS BOUGHTON and DENISE
BOUGHTON,

Defendants-Appellees.

In re Estate of ROBERT E. BOUGHTON,
Deceased.

BARBARA CARVER, ALLAN BOUGHTON,
and CALVIN BOUGHTON,

Plaintiffs,

and

ESTATE OF ROBERT E. BOUGHTON,
Deceased,

Plaintiff-Appellant,

No. 228914
Calhoun Probate Court
LC No. 96-000057-IE

DENNIS BOUGHTON and DENISE
BOUGHTON,

Defendants-Appellees.

Before: Markey, P.J., and Cavanagh and R. P. Griffin*, JJ.

PER CURIAM.

In these consolidated appeals, plaintiffs Barbara Carver, Allan Boughton, Calvin Boughton and the Estate of Robert E. Boughton, Deceased, appeal as of right the July 14, 2000,¹ probate court order granting defendants summary disposition on the basis that it lacked jurisdiction over plaintiffs' petition for a final accounting of partnership assets. The sole issue in these appeals is whether the probate court has jurisdiction, in the course of winding up an estate, to also wind up the affairs of the decedent's partnership with one of the heirs. We reverse and remand to probate court for a final accounting and dissolution of the partnership and for final distribution of the estate.

The probate court is a court of limited jurisdiction, deriving all of its powers from statutes. *Manning v Amerman*, 229 Mich App 608, 611; 582 NW2d 539 (1998); *McCormick v McCormick*, 221 Mich App 672, 681; 562 NW2d 504 (1997). Here, the circuit court found that the probate court had concurrent jurisdiction of this matter under MCL 700.22, and removed the case to the probate court. However, after the circuit court's decision, MCL 700.22 was repealed and replaced by MCL 700.1303,² which provides, in pertinent part:

(1) In addition to the jurisdiction conferred by [MCL 700.1302] and other laws, the [probate] court has concurrent legal and equitable jurisdiction to do all of the following in regard to an estate of a decedent, protected individual, ward, or trust:

(a) Determine a property right or interest.

(b) Authorize partition of property.

* Former Supreme Court justice, sitting on the Court of Appeals by assignment.

¹ We disagree with defendants' argument that this Court lacks jurisdiction because these appeals were not timely filed. The appeals were taken, not from the September 14, 1999 probate court order as asserted by defendants, but rather from the July 14, 2000 probate court order granting defendants' motion for summary disposition.

² The act took effect April 1, 2000, and applies to the proceedings in probate court because the case was pending in court on that date. MCL 700.8101.

(c) Authorize or compel specific performance of a contract in a joint or mutual will or a contract to leave property by will.

(d) Ascertain if individuals have survived as provided in this act.

(e) Determine cy-pres or a gift, grant, bequest, or devise to trust or otherwise as provided in 1915 PA 280, MCL 554.351 to 554.353.

(f) Hear and decide an action or proceeding against a distributee of a fiduciary of the estate to enforce liability that arises because the estate was liable upon some claim or demand before distribution of the estate.

(g) Impose a constructive trust.

(h) Hear and decide a claim by or against a fiduciary or trustee for the return of property.

(i) Hear and decide a contract proceeding or action by or against an estate, trust, or ward.

(j) Require, hear, or settle an accounting of an agent under a power of attorney.

(k) Bar an incapacitate or minor wife of her dower right.

* * *

(3) The underlying purpose and policy of this section is to simplify the disposition of an action or proceeding involving a decedent's, a protected individual's, a ward's, or a trust estate by consolidating the probate and other related actions or proceedings in the probate court.

Thereafter, the probate court determined that the new statute did not give it jurisdiction to wind up a partnership "simply because one of the partners was an estate or is presently an estate", and the court expressed concern that a broad interpretation of the statute could result in exceedingly complex claims in some cases. However, a mere "complexity of accounts" does not deprive the probate court of jurisdiction. *Brooks v Hargrave*, 179 Mich 136, 146; 146 NW 325 (1914). Moreover, under the Uniform Partnership Act, MCL 449.1 *et seq*, each partner holds three partnership rights: the rights in specific partnership property, the interest in the partnership, and the right to participate in the management. MCL 449.24; *Backowski v Solecki*, 112 Mich App 401, 410; 316 NW2d 434 (1982). Thus, considering that the sole partners are the decedent and one of his heirs, we conclude that this case involves a dispute over "a property right or interest" within the meaning of MCL 700.1303(1)(a). The probate court therefore has concurrent jurisdiction over the matter, and it erred in dismissing plaintiff's petition for lack of jurisdiction.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Jane E. Markey
/s/ Mark J. Cavanagh
/s/ Robert P. Griffin