

EDITH BENE GRAY, Administratrix, and CHARLES D. COLE, Administrator of the estate of JOSHUA D. KIMBER, lately deceased of the Territory of Marshall, Appellants, v. KARL BLAU, Agent for the CAVALLA RIVER CO., LTD., Territory of Marshall, and His Honor ISHMAEL, Judge of the Provisional Monthly and Probate Court, Territory of Marshall, Appellees.

APPEAL FROM THE MONTHLY AND PROBATE COURT OF THE TERRITORY OF MARSHALL.

Decided January 14, 1930.

Any person unlawfully interfering with an intestate estate shall become liable for the payment of all the debts due by the deceased and for the respective shares of the natural or legal heirs to such estate.

On petition by administrator the Monthly and Probate Court found that defendant had interfered with estate of intestate and awarded damages in the amount of one hundred pounds. On appeal and cross-appeal to this Court, judgment *amended*.

*Nete Sie Brownell* for plaintiffs-in-error. *H. L. Harmon* for defendants-in-error.

PER CURIAM.

Joshua D. Kimber, a young man of the Vey tribe, once comptroller of the Money Order Bureau, Monrovia Post Office, seeking to improve his financial condition during the World War, left Monrovia and went to the Territory of Marshall and settled there. In due course of time he became a noted trader and acquired properties in Bethlehem, Marshall, Owensgrove, Mount Olives, and in the settlement of Schiefflin.

So sound was his financial condition that the firm of Cavalla River Company, Ltd., one of the defendants-in-error, entered into an agreement with him on the 21st day of December, 1926, whereby a contractor's business was to be carried on by him on behalf of the firm.

It was under these expressed stipulations and agreements that Mr. Kimber and the firm of Cavalla River Company carried on business dealings when, on the 1st day of August, 1928, while the contractor was carrying produce from his business place at Raw-creek to Monrovia to pay certain obligations due the Methodist Mission, Farmington River, which he was buying, as well as to make certain purchases for his own personal business which he also carried on, as he got near the city of Marshall, his canoe swamped in turbulent water and he lost his life.

Despite the terms of the three agreements above referred to and which were marked by the court "A," "B" and "C," respectively, immediately after the death of the said J. D. Kimber, the agent of the defendant firm, Karl Blau, without reference to the Judge of the Monthly and Probate Court of that territory who was within seven minutes from him, despatched boats to the point of Bethlehem, Owensgrove and Raw-creek and there did violently break open the stores, warehouses, and dwelling houses of decedent there situated and removed therefrom all property therein found without the intervention, knowledge and authorization of the Monthly and Probate Court which has control of intestate estates, nor were said acts done in the presence of any one claiming as next of kin to, or personal representative of, the said J. D. Kimber. In the execution of this unwarranted act, defendant firm committed waste of the personal property of decedent in that merchandise was stolen, cash taken away without strict accounting, produce handled carelessly and disposed of by defendant firm in their own discretion, valuable papers and securities of decedent and his business books thereon

handled carelessly and some stolen and lost beyond recovery to the destruction of the intestate estate aforesaid and to the damage of the heirs and creditors of decedent.

Having done all these things, when the court opened for the month of August, 1928, defendant filed a petition asking that an appraiser be appointed so that they could obtain payment of a balance of £54:5:2 which they said was all the decedent owed them after they had independently brought all his goods and produce to their account. See petition filed August 20th, 1928.

At the September term of court when Edith Bene Gray, sister to the deceased, petitioned that Mr. Charles D. Cole and herself should be appointed administrator and administratrix, respectively, of the estate, the respondent firm objected and contended that they should be appointed in conjunction with the petitioner as they were creditors. The court would not entertain the objections of the firm, and appointed Mr. Cole and Mrs. Gray administrator and administratrix respectively, who thereupon filed a petition setting forth the facts of the interference with the estate and praying that defendant be summoned to make answer thereto, and if found guilty of the charges therein set out, that judgment be entered against said firm as *administrator de son tort* and they be made liable for double the value of the estate for the payment of all decedent's debts, and for the respective shares of all the natural or legal heirs to decedent's estate.

In the above cause abundant proof was had in the trial of the case in June, 1929, showing the derelict and wanton manner in which the estate of the decedent was handled; and the court below, in spite of itself, was obliged to enter judgment on the 22nd day of June, 1929, to the effect that defendant firm was guilty of the charge against it but awarded only one hundred pounds sterling to petitioner together with all costs, and barred the firm from further claims against the estate. To this judgment, respondents excepted and prayed an appeal to this Court, and peti-

tioner in the court below excepted to the judgment in the respect that the amount awarded was absolutely too little and inadequate and decided upon a cross-appeal to this Court.

The counsellor for the appellee contested ably and contended brilliantly that the Monthly and Probate Court has not the power and jurisdiction over the case, to render judgment which would deprive his client of the privilege of a jury trial before the Circuit Court. This raises an important question of jurisdiction in the case (territorial jurisdiction and personal jurisdiction). As a rule one offense against the law of one sovereignty is no offense against the law of another. And one sovereignty has no jurisdiction over, and will not under those circumstances, have authority to punish an offense committed in another foreign state. Also the law court is competent when it has the power to hear and determine matters legally conferred upon it by the Constitution and the statute laws of the state.

The Monthly and Probate Court has strong resemblance to equity, admiralty and ecclesiastical courts in its procedure and trial without jury. This court is created specially by the Statute of 1856. Its trial is dissimilar to common law jury trial. Where the Legislature creates an act of specific purpose, the act is binding upon the courts and the people of Liberia except when it is against the organic law of the State. While we have a high and great deference for the statute laws of the United States and England, yet the provisions of the Acts of Legislature of Liberia are paramount in our courts. The Legislature, knowing our peculiar circumstances, to maintain peace and happiness, to avoid multiplicity of suits and litigations and to protect orphans, widows and creditors against loss, provided for litigants by this act a procedure both inexpensive and expeditious.

In this case the defendant committed the offense in the Territory of Marshall; he resides at Marshall. Hence,

the Monthly and Probate Court did not act *ultra vires*; that is, the Court had jurisdiction over the case and the defendant's person.

Petitioners state:

"Petitioners therefore respectfully submit that the judgment of the court below should be amended and the proper judgment entered by this court as said judgment of the court below is absolutely contrary to law and the facts in the case."

1. The evidence having disclosed that defendant committed flagrant waste of decedent's estate, the judge should have entered judgment for double the value of the personal property interfered with. See evidence of Edith Cole, Metzger, Kaine, Ross, Lloyd, Watts and Shaffa. Record pp. 1 to 15; Exhibits "A," "B," "C" and "D"; Lib. Stat. (Old Blue Book), 118, § 1; 11 R.C.L. 456, § 562; *id.* at 459, § 565.

This Court weighs calmly and maturely all the circumstances in this case, the nature and magnitude of the offense charged. The Court is firmly of the opinion that the defendant's company should make restitution of one thousand five hundred dollars to the petitioner. The former opinion is set aside and the defendant is barred from making further demands upon the estate. And it is so ordered.

*Amended.*