

Orphans' Court for Montgomery County
Estate No. W102151

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND**

No. 778

September Term, 2021

IN RE: THE ESTATE OF MEHDI AHMAD

Nazarian,
Friedman,
Zic,

JJ.

Opinion by Friedman, J.

Filed: March 23, 2023

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. MD. R. 1-104.

**At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

In this appeal, M. Abraham Ahmad challenges the orders of the Orphans’ Court for Montgomery County granting summary judgment against his Petition to Caveat his father’s will and denying his Petition for the Allowance of a Claim. For the reasons that follow, we affirm the orders of the orphans’ court.

BACKGROUND

The decedent, Mehdi Ahmad, was born in Iran in 1923.¹ In the late 1970’s around the time of the Iranian revolution,² Mehdi began transferring personal assets from Iran to the United States. Those assets were used to establish and fund two Maryland corporations. In 1982, after being summoned to appear before the Islamic Revolutionary Court,³ Mehdi left Iran and traveled to Turkey. Shortly thereafter, Mehdi immigrated to the United States and settled in Maryland. The two corporations that he had established served as his primary means of income and were operated as family businesses with interests in commercial real

¹ Because many of the parties share a surname, we will refer to them by their respective given names.

² The Iranian Revolution of 1978-79 overthrew a western-style monarchy led by Mohammed Reza Shah and replaced it with an Islamic government led by clerics and ayatollahs and governed by Islamic law. Janet Afary, *Iranian Revolution*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/event/Iranian-Revolution> (last updated Mar. 13, 2023).

³ Following the Iranian revolution, the Revolutionary Courts were established to try individuals for offenses “viewed as potentially threatening to the Islamic Republic.” *Ahmedmehrabi v. Gonzales*, 250 Fed. Appx. 164, 166 (6th Cir. 2007). These Revolutionary Courts operate as a “parallel system of judgment and punishment” that grant an accused little, if any, opportunity to defend themselves at summary trials that can last only minutes. *Estate of Bayani v. Islamic Republic of Iran*, 530 F. Supp. 2d 40, 43-44 (D.D.C. 2007). A summons to appear could result in seizure of property, detention, and torture, and those found guilty can be executed. *Id.* at 44.

estate. In 1996, Mehdi became a naturalized citizen of the United States. Mehdi died on November 30, 2018.

In August 2008, Mehdi and his wife, Giti, had established the Mehdi Ahmad and Giti Ahmad Revocable Trust, which was funded with Mehdi's interests in the family businesses. The terms of Mehdi's will provided that whatever assets remained in his estate at his death would pass to the Trust. The terms of the Trust specifically designated two of Mehdi's three children, M. Jaffar Ahmad and N. Linda Mansouri, and Jaffar's and Linda's respective heirs, as beneficiaries. Moreover, the Trust specifically excluded Abraham from ever being a trustee or a beneficiary. Mehdi's will appointed Jaffar and Linda as co-personal representatives.

To avoid the effect of his disinheritance, Abraham has taken repeated legal action.⁴ A central feature of these cases is Abraham's argument that at the time of his death Mehdi was not domiciled in Maryland but was instead a domiciliary of Iran, making Mehdi's estate subject to the primogeniture inheritance provisions of the Iranian Civil Code. Abraham asserts that under Iranian laws, he inherited an indefeasible fixed portion of

⁴ In November 2019, Abraham also filed a lawsuit in the Circuit Court for Montgomery County specifically challenging the validity of the Trust. *See Ahmad v. Mehdi Ahmad & Giti Ahmad Revocable Trust*, Sept. Term 2020, No. 634, Slip Op. at *2 (unreported opinion) (filed December 27, 2021) (*cert. dismissed as improvidently granted*). The circuit court dismissed the suit on the grounds that it was barred by the statute of limitations. *Id.* at *3. In his brief, Abraham complains that the orphans' court erred by not staying the probate proceedings to await this Court's decision in his appeal of that dismissal. That appeal has since been resolved and its resolution does not conflict with any actions taken by the orphans' court. *Id.* at *5-6. The issue of whether the orphan's court erred by not staying this case during the pendency of that case is now, therefore, moot.

Mehdi's estate that automatically vested at his birth and applies to all assets that can be traced to assets that Mehdi owned when Abraham was born in Iran. To protect his claimed birthright, in May 2019, Abraham filed a Claim for \$6,000,000 on the grounds that it was his legally required share of Mehdi's estate under Iranian law. Later, on July 2, 2020, Abraham filed a Verified Petition to Caveat Mehdi's will arguing that at the time of his death, Mehdi was domiciled in Iran and thus Mehdi's will was invalid and his estate was subject to the primogeniture inheritance provisions of the Iranian Civil Code.

Jaffar and Linda, acting as co-administrators of their father's will, disallowed Abraham's Claim and filed a Motion for Summary Judgment of Abraham's petition to caveat.⁵ Following the disallowance, Abraham filed another petition with the orphans' court, this time seeking to enforce the allowance of his Claim. The orphans' court held a hearing on Abraham's petition to caveat and Jaffar and Linda's motion for summary judgment on April 9, 2021, after which it issued an order granting the motion for summary judgment. Shortly after, the orphans' court issued an order denying Abraham's Petition for Allowance of his Claim.

⁵ Jaffar and Linda filed their motion as a Motion to Dismiss or in the alternative, for Summary Judgment. Because the orphans' court treated the motion as one for summary judgment, we will review it and refer to it as such. MD. R. 2-322(c); *D'Aoust v. Diamond*, 424 Md. 549, 572-73 (2012).

DISCUSSION

I. DISMISSAL OF THE PETITION TO CAVEAT

Abraham’s primary argument in this appeal is that the issue of Mehdi’s domicile was a genuine dispute of material fact, and as such, the orphans’ court erred in granting summary judgment on his Petition to Caveat. We disagree.

The standards for summary judgment are the same in the orphans’ court as in the circuit court. *McIntyre v. Smyth*, 159 Md. App. 19, 26-27 (2004). We review the grant or denial of a motion for summary judgment without deference. *Webb v. Giant of Md., LLC*, 477 Md. 121, 135 (2021). If there is no genuine dispute of material fact, our role is to determine whether the orphans’ court was correct as a matter of law. *Id.*

A person’s domicile is the place where they have “a settled connection for legal purposes.” *Oglesby v. Williams*, 372 Md. 360, 373 (2002) (quoting *Roberts v. Lakin*, 340 Md. 147, 153 (1994)). It is a “fixed, permanent home, habitation and principal establishment,” from which the person has no present intention of moving and to which he intends to return whenever he is absent. *Id.* (quoting *Roberts*, 340 Md. at 153). A person can have only one domicile at a time, and once it has been established, it continues in that place until a new domicile is established elsewhere. *Oglesby*, 372 Md. at 373-74. Although no one factor is controlling, where a person lives and where a person votes are often considered to be the two most important factors to determine that person’s domicile. *Id.* If both of those things are in the same place, it can create a rebuttable presumption that the person is domiciled in that place. *Id.* If consideration of those two factors leaves some

question about where a person is domiciled, courts can look to “a myriad of other factors,” including:

the paying of taxes and statements on tax returns; the ownership of property; where the person’s children attend school; the address at which one receives mail; statements as to residency contained in contracts or other documents; statements on licenses or governmental documents; where furniture and other personal belongings are kept; which jurisdiction’s banks are utilized; membership in professional, fraternal, religious or social organizations; where one’s regular physicians and dentists are located; where one maintains charge accounts; and any other facts revealing contact with one or the other jurisdiction.

Blount v. Boston, 351 Md. 360, 369-70 (1998) (quoting *Bainum v. Kalen*, 272 Md. 490, 499 (1974)).

Although domicile can be a somewhat elusive concept, *see Blount*, 351 Md. at 367, it is not an abstract one. Intent is the controlling factor in determining a person’s domicile, in that a person’s domicile is, generally speaking, “that place where he intends to be.” *Oglesby*, 372 Md. at 373. To determine whether a person has changed domicile, two aspects of the element of intent must be apparent: the intentional abandonment of the former place of domicile, and the establishment of a new place of habitation as an intended domicile. *Id.* Significantly, “if a person has actually moved to a new abode, with the intention of remaining there for an indefinite time, and establishing it as a place of fixed present domicile, that place is to be deemed [their] domicile, notwithstanding [that they] may entertain a floating intention to return to [a] former domicile at some future time.” *Oglesby*, 372 Md. at 374-75 (cleaned up).

Abraham argues that, despite his father’s extended physical presence in Maryland, the entire “reason for [Mehdi’s] existence” after fleeing Iran “was to effectuate a regime

change” in Iran so that he could eventually return. In support of this position, Abraham notes that Mehdi was active in organizations that advocated for regime change in Iran so that those who had fled the country following the 1979 Islamic Revolution could someday return. Abraham also points to several statements made by Mehdi asserting that he did not “live” in the United States but was a political refugee.⁶

Abraham argues that because Mehdi harbored the intent to return to Iran if it ever became possible, Mehdi never abandoned his domicile in Iran or acquired a new one in Maryland. Abraham’s interpretation of “intent” is, however, inconsistent with how the term applies to the concept of domicile.

While a person’s statements regarding their “intent as to domicile are admissible and should be considered,” intent is “more satisfactorily shown” by their actions rather than their words. *Blount*, 351 Md. at 368. Intent as to a person’s domicile is shown primarily through objective factors. *Id.* Here, every objective factor that is relevant to the determination of domicile shows that Mehdi was domiciled in Maryland: he chose to

⁶ Abraham complains that the orphans’ court abused its discretion by granting summary judgment before he had the opportunity to conduct “meaningful” discovery. We note, however, that this is the third lawsuit that Abraham has filed against members of his family and the second lawsuit in which he has challenged the disposition of his father’s estate. See *Ahmad v. Eastpines Terrace Apartments, Inc.*, 200 Md. App. 362 (2011); *Ahmad v. Ahmad Revocable Trust*, *supra* note 4. Thus, Abraham had the opportunity to conduct discovery not only in the present case, but also in previous litigation between the same parties on many of the same issues. “While it is true that the court has the discretion to deny a motion for summary judgment so that a more complete factual record can be developed, it is not reversible error if the court chooses not to do so.” *A.J. Decoster Co. v. Westinghouse Elec. Corp.*, 333 Md. 245, 262-63 (1994). Abraham’s “[s]peculation concerning the existence of unproduced evidence” is insufficient to defeat the motion for summary judgment. *Vogel v. Touhey*, 151 Md. App. 682, 705 (2003).

become a naturalized citizen of the United States; he had both a United States’ social security card and passport; he had a Maryland drivers’ license; he filed state and federal taxes in Maryland; he owned businesses in Maryland; he lived in Maryland for more than thirty years before his death; and he executed a will that stated he was “presently a resident of *and domiciled in* the State of Maryland.” (Emphasis added.)

Even if we make every inference in Abraham’s favor, at best he established that Mehdi had “a floating intention to return” to Iran sometime in the future. *Oglesby*, 372 Md. at 375. That showing is insufficient to create a factual dispute as to Mehdi’s domicile at the time of his death. Because there was no dispute of material fact, Jaffar and Linda were entitled to judgment as a matter of law and the orphans’ court was legally correct in granting summary judgment.⁷

⁷ Abraham also complains that the orphans’ court should not have ruled on the motion for summary judgment at all because doing so required a factual determination and he had requested that all disputed facts be transmitted to the circuit court for trial. *See* MD. R. 6-434; MD. CODE, ESTS. & TRS. (“ET”) § 2-105(b). Contrary to Abraham’s assertion, it is not the role of the orphans’ court to blindly transmit “any question [a litigant] may see fit to propose.” *Harlan v. Lee*, 174 Md. 579, 588 (1938). Rather, “[i]n proper cases, the orphans’ court is required to [transmit] relevant, material and correctly drawn issues when presented.” *Harlan*, 174 Md. at 589. In its ruling on the motion for summary judgment, the orphans’ court did not make a finding on a disputed fact but instead determined that there was no genuine dispute of fact to be resolved. Without a genuine dispute of material fact, all that remained was a question of law. “It is impermissible to submit an issue which poses a pure question of law.” *Nugent v. Wright*, 277 Md. 614, 620 (1976). Thus, it would have been improper for the orphans’ court to have transmitted Abraham’s issues to the circuit court, and we reject Abraham’s argument to the contrary.

II. APPLICABILITY OF THE IRANIAN CIVIL CODE

In the alternative, Abraham argues that regardless of where Mehdi was domiciled at the time of his death, the orphans' court should have applied the Iranian Civil Code regarding primogeniture inheritance because that law fixes an eldest son's inheritance at the time of his birth and because Maryland courts are constitutionally required to protect a person's preexisting property rights. We disagree.

We first note that, although Abraham makes a broad general assertion that Maryland is constitutionally required to “recognize and enforce rights acquired under the laws of another nation,” he is incorrect. Contrary to Abraham's assertion, there is “no constitutional requirement of recognition” of the judgments of courts of foreign countries. *Aleem v. Aleem*, 404 Md. 404, 418-19 (2008) (quoting *N. Aluminum Co. v. Law*, 157 Md. 641, 646 (1929)). It is instead a matter of comity—that is, the recognition that one nation may decide to give to the executive, legislative, or judicial acts of another—and comity is not mandatory. *Aleem*, 404 Md. at 413 (“No law has any effect, of its own force, beyond the limits of the sovereignty from which its authority is derived.”) (quoting *Hilton v. Guyot*, 159 U.S. 113, 163 (1895)).

Second, we note that the doctrine of comity is typically invoked when a party is seeking the enforcement of a “fully and finally litigated [foreign] judgment,” or is requesting the stay or dismissal of a proceeding on the grounds that there is a case involving the same parties and subject matter already pending in a foreign jurisdiction, *Apenyo v. Apenyo*, 202 Md. App. 401, 410 (2011), or, as in the cases relied upon by Abraham in his brief, when one of the parties or some of the property at issue is located in, or at least

contemporaneously connected to, the foreign jurisdiction. *See, e.g., Jones v. Jones*, 299 So. 2d 729, 732-33 (Ala. 1974) (discussing funds from the sale of a piece of property in Florida following the death of a decedent domiciled in Alabama); *Quintana v. Ordonez*, 195 So. 2d 577, 580 (Fla. Dist. Ct. App. 1967) (discussing vested marital interest in property acquired jointly in Cuba following the death of a decedent domiciled in Florida). Here, Abraham does not have a foreign judgment that he is seeking to enforce, none of the parties live in Iran, and the estate does not include any property located in Iran. Instead, Abraham asks that we set aside a will drafted and executed under Maryland law, by a decedent domiciled in Maryland, bequeathing property located in Maryland, to beneficiaries who are also located in Maryland, solely based on the fact that Abraham was born in Iran (but no longer lives there either). We are not persuaded that the doctrine of comity is applicable under these circumstances.

Finally, we note that, even if the doctrine of comity was applicable here, there are well established limits on its application “when the strong public policies of the forum are vitiated by the foreign act” seeking to be applied. *Aleem*, 404 Md. at 420 (cleaned up). If

a foreign law directly violates some recognized principle of public policy, or some established standard of morality prevailing in the forum exercising jurisdiction, the rules of comity will not compel such forum to enforce the foreign law rather than its own, if to do so would be hurtful or detrimental to the interest and welfare of its own citizens.

Aleem, 404 Md. at 418 (cleaned up) (quoting *Lowndes v. Cooch*, 87 Md. 478, 486-87 (1898)). As a general concept, the Iranian civil law tradition of forced primogeniture heirship conflicts with Maryland’s adoption of statutory provisions allowing any

competent person aged 18 or older to make a will to dispose of their estate as they see fit. *See* ET § 4-102. Moreover, the Islamic primogeniture inheritance laws that Abraham seeks to enforce include provisions that discriminate based on both religion and sex.⁸ To disregard Mehdi's choice as expressed in his will in favor of applying Iranian primogeniture law to Mehdi's estate would be contrary to Maryland public policy.⁹ The orphans' court, therefore, did not err in declining to apply the Iranian Civil Code.

III. PETITION FOR AN ALLOWANCE OF A CLAIM

Finally, Abraham complains that the orphans' court erred in denying his petition for the allowance of his claim against Mehdi's estate. Abraham's claim for an allowance was, however, based exclusively on his assertion that he was entitled to primogeniture inheritance under the Iranian Civil Code. Because we have determined that the Iranian

⁸ *See* THE CIVIL CODE OF THE ISLAMIC REPUBLIC OF IRAN 1307 [1928], art. 881b, <https://www.refworld.org/docid/49997adb27.html> (last accessed Mar. 21, 2023) (“An unbeliever (Kafir) does not take inheritance from [Muslims] and if there are unbelievers among the heirs of a deceased unbeliever, the unbelieving heirs do not take inheritance even if they are prior to the Muslim as concerns class and degree.”); art. 907 (“If there are several children, some being sons and some daughters[,] each son takes twice as much as each daughter.”).

⁹ There is an irony to Abraham's position. The American Revolution overthrew a hereditary patriarchy in favor of republicanism. GORDON S. WOOD, *THE RADICALISM OF THE AMERICAN REVOLUTION* 181 (1993). Although historians debate the effect of the American Revolution on state inheritance laws, WOOD at 183; Stanley N. Katz, *Republicanism and the Law of Inheritance in the American Revolutionary Era*, 76 MICH. L. REV. 1, 13 (1977), it would be unusual if the framers of Article 24 of the Maryland Declaration of Rights intended for it to be used to force feudal primogeniture on Mehdi's estate. Rather, we understand that Marylanders are and remain free to decide what to do with their estates after death without either the State or religion limiting those choices.

Civil Code is inapplicable and Abraham presents no other grounds to support his claim, the orphans' court did not err in denying Abraham's petition.

**JUDGMENT OF THE ORPHANS'
COURT FOR MONTGOMERY
COUNTY AFFIRMED. COSTS TO
BE PAID BY THE APPELLANT.**