

***COURT OF COMMON PLEAS OF PHILADELPHIA
ORPHANS' COURT DIVISION***

O. C. NO. 1393 of 1994

Estate of BARBARA LUCIFERO, Deceased

Before: TUCKER, ADM. J., and PAWELEC, J.

OPINION IN SUPPORT OF EXCEPTIONS

PAWELEC, J.

Barbara Lucifero died on January 17, 1994. There was a will which divided her estate equally among her four sons. However, the original will was never located. The parties entered into a stipulation (1) that a copy of the will should be probated; (2) that the estate should be divided equally among the decedent's five children, and (3) that Letters of Administration c.t.a. be issued to Anthony Lucifero and Marcello Lucifero, two of the sons.

The only asset of the estate was premises 1719 S. Ninth Street, Philadelphia. Unfortunately, the administration of the estate became contentious. The administrators were ordered to file an account. Each filed his own account and each filed objections to the other's account. Administrative Judge Tucker held hearings on the objections and issued an adjudication dated January 26, 1999. Anthony filed four exceptions to this adjudication, which read as follows:

1. **Attorney fees which were for services rendered in purchasing the real estate owned by the estate. Reimbursement to Marcello Lucifero for attorney's fees.**
2. **Reimbursement of Marcello Lucifero for April 15, 1995 appraisal and termite certification paid for at settlement. Objectant claims that these are expenses incurred in purchasing the real estate and should not be paid for by the estate.**
3. **Payment of debts of the decedent totaling \$7,142.78. Including reimbursement for loan payment to Beneficial Savings Bank in the amount of \$100.00 and Strawbridge & Clothier Bill of \$91.**
4. **Reimbursement for filing fee of \$440 and water revenue bill.**

Since there were no liquid assets to pay decedent's debts, the costs of administration and the inheritance tax, it was necessary for the realty to be sold. Marcello purchased the property from the estate. Apparently, it was during this period that the difficulties escalated.

The exceptions are without merit and should be dismissed.

As to exception No. 1, Administrative Judge Tucker specifically stated that detailed time records of counsel were presented to her. She determined the legal services were for the benefit of the estate.

As to exception Nos. 2, 3 and 4, Administrative Judge Tucker properly put the burden on Marcello Lucifero, the accountant, to document the payment of the expenses. In her adjudication, she notes that Marcello did produce evidence to show these were proper estate expenses and that payment was made.

Administrative Judge Tucker considered the evidence, applied the correct law and made her decision. This decision is fully supported by the record.

Accordingly, the exceptions are dismissed.

BY THE COURT:

Pawelec, J.

**George V. Famiglio, Esquire
for the exceptant
Anthony Lucifero**

**Rachel L. Friedman, Esquire
for Marcello Lucifero**