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SUPERIOR COURT
OF GUAM

2024 JUN 10 PM 4: 29

CLERK OF COURT

BY: _____

IN THE SUPERIOR COURT OF GUAM

IN THE MATTER OF THE ESTATE

PROBATE CASE NO. PR0234-22

OF

FRANCIS L. MOYLAN and YUK LAN
MOYLAN,

DECISION AND ORDER
Re: Richard Moylan's Motion to Dismiss

Deceased.

This matter came before the Honorable Arthur R. Barcinas on March 7, 2024, for a hearing on Plaintiff Richard Moylan's ("Plaintiff") GRCP Rule 12(b)(6) Motion to Dismiss Probate Petition ("Motion to Dismiss), filed on January 16, 2024. Present at the hearing were Petitioner Lina Leialoha Moylan Alston's ("Petitioner") counsel Attorney Jacqueline T. Terlaje; and Richard Moylan, with his counsel Attorney William B. Pole. Having taken the parties' arguments under advisement, the Court **DENIES** the Motion to Dismiss.

BACKGROUND

This matter arises from a probate case regarding the estate of Francis L. Moylan and Yuk Lan Moylan (collectively, "Decedents"). On December 21, 2022, Petitioner filed a Verified Petition for Probate of Will with Will Annexed and Issuance of Letters Testamentary, as well as an Order for Granting Special Letters of Administration. On December 23, 2022, Plaintiff filed

1 his objection to Petitioner’s filings. On January 16, 2024, Plaintiff filed the Motion to Dismiss,
2 claiming that Frances S. Pua Pueo, an omitted alleged heir of Francis L. Moylan, had not been
3 notified of the Petition nor given an opportunity to contest it, and arguing that the Court is
4 allegedly deprived of jurisdiction to proceed.

5 On February 14, 2024, Petitioner filed an opposition to the Motion to Dismiss, arguing
6 that, while Petitioner was unaware of any omitted heir, that alone would not be sufficient to
7 prevent probate administration, as the omitted heir is able to seek determination of heirship prior
8 to final distribution under 15 GCA § 3201. Opp., at 4.

9 On February 26, 2024, Plaintiff filed a reply to the opposition, arguing that Pueo holds
10 herself out as an Heir of Francis L. Moylan, and that 15 GCA § 3201 “does not limit the right of
11 a potential heir if that heir has no knowledge to come forward.” Reply, at 2.
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13 On March 7, 2024, the Court heard arguments from both parties, and subsequently took
14 the matter under advisement.
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16 **DISCUSSION**

17 Plaintiff argues that this case is ripe for dismissal under Guam Rules of Civil Procedure
18 (“GRCP”) Rule 12(b)(6). In support of this claim, Plaintiff argues that, when considering the
19 motion, “the court is not required to accept as true any conclusions of law or unwarranted
20 deductions of fact in the complaint.” Mot., at 2 (citing *Sutter v. Duke*, 176 S.E.2d 161 (N.C.
21 1970)). Plaintiff further argues that “[w]hen the complaint fails to allege the substantive
22 elements of some legally cognizable claim, or where it alleges facts that defeat any claim, the
23 complaint should be dismissed under Rule 12(b)(6).” *Id.* at 2-3 (citing *Hudson Cole Dev. Corp.*
24 *v. Beemer*, 511 S.E.2d 309 (N.C. App. 1999)). The Court disagrees that the case is ripe for
25 dismissal, for the following reasons.
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1 GRCP Rule 12(b)(6) allows a court to dismiss a complaint for failure to state a claim
2 upon which relief can be granted. *See* Guam R. Civ. P. 12(b)(6). Guam law requires only a short
3 and plain statement of the claim showing entitlement to relief. *Ukau v. Wang*, 2016 Guam 26 ¶
4 52. Whether a plaintiff pleaded or proved his claim by preponderance of the evidence is
5 immaterial at the 12(b)(6) phase; Plaintiff merely has to state sufficient facts to place Defendant
6 on notice of his claim. *Wang*, 2016 Guam 26 ¶ 53. While a complaint attacked by a Rule
7 12(b)(6) motion to dismiss need not contain detailed factual allegations, a plaintiff's obligation to
8 provide the grounds of his entitlement to relief "requires more than labels and conclusions, and a
9 formulaic recitation of the elements of a cause of action will not do." *Wang*, 2016 Guam 26 ¶ 26.
10 Beyond this, the Supreme Court has declined the invitation to apply a heightened plausibility
11 standard to local civil proceedings, and it imposes only a liberal notice pleading requirement. *See*
12 *id.* at ¶ 33.

15 When reviewing a Rule 12(b)(6) motion, the trial court must construe the pleading in the
16 light most favorable to the non-moving party and resolve all doubts in the non-moving party's
17 favor. *Id.* at ¶ 51. In ruling on a 12(b)(6) motion, a court's consideration is limited to the
18 complaint, written instruments attached to the complaint as exhibits, statements or documents
19 incorporated in the complaint by reference, and documents on which the complaint heavily
20 relies. *Core Tech Int'l Corp. v. Hanil Eng. & Constr. Co.*, 2010 Guam 13 ¶ 29.

22 The Court finds that, construed in the light most favorable to Petitioner and resolving all
23 doubts in Petitioner's favor, the Petition meets the liberal notice pleading requirement under
24 GRCP 12(b)(6).

26 The Court further finds that, while Plaintiff frames his motion to dismiss as being brought
27 under GRCP 12(b)(6), failure to state a claim for which relief may be granted, he does not seem
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1 to demonstrate that Petitioner has failed to state such a claim, or that there is no set of facts
2 which could be proved in support of the claim. Instead, his fundamental argument seems to be
3 that the Court lacks sufficient jurisdiction to proceed in this matter. Plaintiff begins his argument
4 by stating that “[i]n the instant case the Court must determine if it has jurisdiction to hear the
5 matter,” and then argues that because Pueo was not identified in the Petition, “[t]he Petition is
6 defective ... and lacks sufficient jurisdiction for the Court to proceed.” Mot., at 3.

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8 Moreover, even if the Court were to attempt to frame Plaintiff’s jurisdictional argument
9 through the more appropriate 12(b)(1) lens, the Court does not find that it is deprived of
10 jurisdiction. Plaintiff’s argument is largely predicated upon the Hon. Alberto J. Lamorena III’s
11 March 19, 2018 decision on a Motion for Reconsideration in *In the Matter of the Estate of*
12 *Lagrimas C. Cruz*, PR0110-14 (Super. Ct. Guam). The Court does not find the March 19, 2018
13 *Cruz* decision persuasive in the instant case. In that decision, Judge Lamorena granted
14 reconsideration on the grounds that, because the lack of service prevented the omitted heir from
15 timely filing a Petition for Determination for Heirship pursuant to 15 GCA § 3201, it was
16 manifestly unjust to deny the omitted heir a hearing on said petition. Judge Lamorena had
17 previously held that the Petition for Determination was untimely filed because it was submitted
18 after the appropriate window to file had closed, i.e., “[a]t any time after the first publication of
19 the notice to creditors ... and prior to the time a petition for final distribution has been filed.”
20 *Cruz*, PR0110-14, D&O at 3 (Super. Ct. Guam, March 19, 2018). Even if Pueo was given no
21 initial notice by Petitioner, she still has the opportunity to file a Petition for Determination for
22 Heirship pursuant to 15 GCA § 3201 because no petition for final distribution has been filed.
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26 Therefore, the Court finds that it is not deprived of jurisdiction to proceed.
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CONCLUSION

Based on the foregoing, the Court **DENIES** Richard Moylan's Motion to Dismiss, and **ORDERS** that notice of these proceedings be served upon Frances S. Pua Pueo by Petitioner.

IT IS SO ORDERED JUN 10 2024.



HONORABLE ARTHUR R, BARCINAS
Judge, Superior Court of Guam

SERVICE VIA EMAIL

I acknowledge that an electronic
copy of the original was e-mailed to:
JACOBINE TORRES
WILLIAM POLE, ESA.

JUN 10 2024
Date: 2:40 PM Time: 2:40 PM

Edna M. Negor
Deputy Clerk, Superior Court of Guam