



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

September 25, 1959

Hon. E. E. Coons
County Attorney
Sherman County
Stratford, Texas

Opinion No. WW-709

Re: Proper disposition of
unclaimed real estate
within six months after
the settlement of the
final account of an
administrator.

Dear Mr. Coons:

We quote the following excerpt from your letter requesting that we advise you on the above captioned matter:

"Administration on the Estate of R. F. Frei, Deceased, has been pending in the County Court of Sherman County, Texas, since April 9, 1956. Mr. Frei died intestate and we have been unable to locate any heirs. His estate consisted of 800 acres of land in Sherman County on 640 of which minerals had been reserved on one-half, and certain personal property. The debts have been paid and the Federal Estate Tax has been paid and the estate is nearly ready to close. W. T. Crabtree whose address is Texhoma, Texas, is administrator of the estate and is about ready to file his final account."

You state that there are no known heirs and that in all probability there will be no one to claim the land or money remaining on hand. You are not concerned about the disposition of any money which may remain or with the administrator's authority to dispose of personal property, under proper court order, being of the opinion that Section 427 of the Probate Code is applicable. We are in accord with this conclusion. However, you request that we advise you as to whether under said section the administrator under proper court order would be authorized to sell the real property and dispose of the proceeds in accordance with the applicable sections of Chapter X of the Probate Code.

Section 427 of the Probate Code reads as follows:

"If any person entitled to a portion of an estate, except a resident minor without a guardian, shall not demand his portion from the

executor or administrator within six months after an order of court approving the report of commissioners of partition, or within six months after the settlement of the final account of an executor or administrator, as the case may be, the court by written order shall require the executor or administrator to pay so much of said portion as is in money to the State Treasurer; and such portion as is in other property he shall order the executor or administrator to sell on such terms as the court thinks best, and, when the proceeds of such sale are collected, the court shall order the same to be paid to the State Treasurer, in all such cases allowing the executor or administrator reasonable compensation for his services." (Emphasis supplied.)

We think that the portion of Section 427 pertaining to court orders requiring an administrator to sell on such terms as the court thinks best "other property" comprises all kinds of property, real as well as personal; and that when such sale has been duly ordered in the instant case, the administrator will then properly proceed, pursuant to further court order, to pay the proceeds of the sale to the State Treasurer who will deposit such proceeds in his Settlement of Estates Fund. See Manion v. Lockhart, 131 Tex. 175, 114 S.W. 2d 216 (1938) and Att'y. Gen. Op. 0-3033.

SUMMARY

Pursuant to proper court orders within six months after the settlement of his final account, an administrator should sell unclaimed real property and transmit the proceeds of such sale to the State Treasurer. Secs. 427, 430, Probate Code, V.A.C.S.

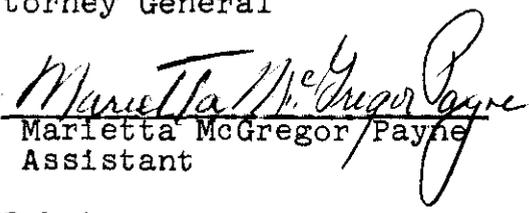
Very truly yours,

WILL WILSON
Attorney General

APPROVED:

OPINION COMMITTEE:
Geo. P. Blackburn, Chairman

Wm. T. Blackburn
Marvin R. Sentell
Wm. D. Armstrong

By 
Marietta McGregor Payne
Assistant

MMP:bct

REVIEWED FOR THE ATTORNEY GENERAL:
By: W. V. Geppert