

SUBJECT *Asato, Est. of Kishin*

File No. *A. 4. 5*

1940.

REMARKS



ATTORNEY-GENERAL'S DEPARTMENT
VICTORIA, B.C.

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The Attorney General's Dept.,
VICTORIA, B.C.

ATTORNEY-GENERAL'S DEPT.

RECEIVED

MAY 28 1940

File No. *A-4-5*

re Estate of Kishin Asato-

Dear Sir:

Enclosed herewith is copy of a letter I received from the Japanese Consulate in regard to the above Estate.

I have always taken the attitude that I must have a Power of Attorney from the heirs in favour of their Consulate before turning the money over to him for distribution. I would be pleased if you would let me know if I should insist on one from the Japanese Consulate.

Yours truly,

P. LEO ANDERTON.
Official Administrator.

P.L.A.

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HIS IMPERIAL JAPANESE MAJESTY'S CONSULATE
Vancouver, B.C.

May 21st. 1940.

P. Leo Anderton, Esq.,
Courtenay, B.C.

-re Estate of Kishin Abato-

Dear Sir:-

In reply to your letter of May 9th. regarding above Estate, we would inform you that a Power of Attorney from the heirs of the Estate is not necessary when being handled through this Consulate.

A great many of these cases where the estate of the deceased is in British Columbia and the heirs in Japan, are handled through this office and in every instance the procedure is for the Official Administrator or person in charge to hand over the estate to this Consulate which then forwards it through the Foreign Office to the heirs in Japan. Receipt for the Estate is then received from the heirs through the same channels.

Yours very truly,

T. Saike,
Secretary.

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A-4-5

May 28th 1940.

P. L. Anderton, Esq.,
Official Administrator,
Courtenay, B.C.

Dear Sir:-

Re Estate Kishin Asato.

Replying to your letter of the 27th instant regarding the right of a Japanese Consul to take possession of the estate of Japanese nationals dying in this country, I may say the matter appears to be governed by Article V of the Japanese Treaty, which is in force as between this country and Japan, reading as follows:-

"Article V.

" In case of the death of a subject of one of the High Contracting Parties in the territories of the other, without leaving at the place of his decease any person entitled by the laws of his country to take charge of and administer the estate, the competent Consular officer of the State to which the deceased belonged shall, upon fulfilment of the necessary formalities, be empowered to take custody of and administer the estate in the manner and under the limitations prescribed by the law of the country in which the property of the deceased is situated.

The foregoing provision shall also apply in case of a subject of one of the High Contracting Parties dying outside the territories of the other, but possessing property therein, without leaving any person there entitled to take charge of and administer the estate.

It is understood that in all that concerns the administration of the estates of deceased persons, any right, privilege, favour or immunity which either of the High Contracting Parties has actually granted, or may hereafter grant, to the Consular officers of any other foreign State shall be extended immediately and unconditionally to the Consular officers of the other High Contracting Party."

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P. L. Anderton, Esq.

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Although this Article is not as clear as it might be on the subject the practice in the past has been for Official Administrators to hand over the assets of the estates of Japanese nationals dying in this country without personal representatives for distribution to the heirs in Japan, and I think you are safe in following this course.

I have the honour to be,
Sir,
Your obedient servant,

Deputy Attorney-General.