



REPUBLIC OF KENYA



**KENYA LAW**  
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**In re Estate of Patrick Onyango Ochang (Deceased) (Succession Cause  
366 of 2000) [2023] KEHC 18269 (KLR) (29 May 2023) (Ruling)**

Neutral citation: [2023] KEHC 18269 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
SUCCESSION CAUSE 366 OF 2000  
RE ABURILI, J  
MAY 29, 2023**

**IN THE MATTER OF THE ESTATE OF PATRICK ONYANGO OCHANG (DECEASED)**

**IN THE MATTER OF**

**FREDRICK OMOLLO OCHANG ..... 1<sup>ST</sup> ADMINISTRATOR  
ROSE ONYANGO ..... 2<sup>ND</sup> ADMINISTRATOR  
ELIJAH P ONYANGO ..... 3<sup>RD</sup> ADMINISTRATOR**

**RULING**

1. On February 21, 2022, this court issued a rectified certificate of confirmation of grant in respect of the administration and distribution of the estate of Patrick Onyango Ochang' (Deceased)
2. On March 31, 2023, the administrators Fredrick Omollo Ochang', Rose Onyango and Elijah P. Onyango filed summons for rectification of certificate of confirmation of grant on the ground that Land described as IR 27975 relating to LR No 6052/3 had not been included in the distribution of the estate and that this property was discovered after the application for confirmation.
3. This court considered the summons for rectification of confirmation of grant dated March 17, 2023 and declined to grant the orders sought for reasons that the administrators had distributed the said asset solely to themselves equally, to the exclusion of the other beneficiaries of the estate, without obtaining consent of the rest of the beneficiaries.
4. It was following dismissal of the said summons that the administrators filed a fresh summons for rectification of certificate of confirmation of grant issued to the administrators on March 21, 2014 to include the asset that was left out and which was discovered later namely, IR 27975 relating to Parcel No LR. No 6052/3.
5. In the new application supported by supporting affidavit sworn by the administrators, who are also the beneficiaries of the estate, the rest of the beneficiaries have since signed consents annexed. When



the matter came up for mention on May 25, 2023, four of the beneficiaries namely: Elijah Onyango, Rozaah Akinyi Buyu, Charles Odhiambo Onyango and Fredrick Omolo Ochang' attended court and confirmed that all beneficiaries had agreed to have the certificate of confirmation of grant rectified to include the asset that was left out.

6. Further, that all beneficiaries had agreed to share the said asset equally as per the proposed mode of distribution contained in the schedule in the supporting affidavit.
7. Mr. Ojuro counsel for the Administrators too owned up and conceded that it was his office that made an error in indicating in the schedule of distribution earlier on filed that the three administrators were the only ones to share the said new asset equally, which error had since been corrected.
8. I have considered the summons for rectification of grant. (certificate of confirmation of grant). I observe that the asset involved was omitted from the initial distribution of the estate amongst the beneficiaries, a process that involved mediation. The reason for the omission have been explained to court.
9. As the intestate estate of a deceased person cannot be administered twice, and as all the beneficiaries have signed consents and agreed on the mode of distribution of the said asset, which is in equal shares, I hereby allow the summons dated May 23, 2023 and order that the orders giving rise to the certificate of confirmation of grant issued on March 21, 2014 be and is hereby set aside and substituted with an order amending the mode of distribution of the estate of the deceased Patrick Onyango Ochang to include the asset No IR 27975 Relating to Parcel No LR No 6052/3 which asset shall be distributed amongst all the beneficiaries equally.
10. An amended certificate of confirmation of grant shall issue forthwith in the place of the one issued on February 21, 2022.
11. The estate of the deceased to be fully distributed within 6 months of today, and a true and accurate accounts to be filed in court in accordance with the dictates of Section 83 of the [Law of Succession Act](#).
12. This file is accordingly closed to allow administration and distribution of the estate of the deceased Patrick Onyango Ochang'.
13. I so order.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 29TH DAY OF MAY, 2023**

**R. E. ABURILI**

**JUDGE**

