



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Jason Akwanyi (Deceased) (Succession Cause
241 of 1990) [2023] KEHC 27194 (KLR) (21 December 2023) (Ruling)**

Neutral citation: [2023] KEHC 27194 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
SUCCESSION CAUSE 241 OF 1990
PJO OTIENO, J
DECEMBER 21, 2023**

**IN THE MATTER OF
GAUDENCIA ALUOCH AKWANYI PETITIONER**

RULING

1. Pursuant to the judgment of the court dated 17.9.2014, the estate was distributed between three beneficiaries as follows;
 1. Margaret Kubende representing 1st house – 3.5 acres
 2. Agnes Achieng representing 2nd house – 3.5 acres
 3. Clement Omondi Okwanyi representing 3rd house – 5.4 acre
2. None of the parties seeks interference with that distribution. There is not even a dispute as to the membership of the three households. The only contestation appears to be whether a purchaser of a portion of the estate land measuring 2 ½ acres from the members of the first household should be included in the certificate of confirmation of grant.
3. To this court, a sale of an estate assets prior to confirmation and distribution without the consent or authority of the court is contra statute and cannot be blessed by the court ratifying same. To that extent, the court cannot acknowledge the sale as sought by Isha Nakhayo Kabuchenyi and Rosemary Wesonga Ahibeda.
4. The court shall restrict itself to the mandate of only dealing with the persons entitled to the estate in intestacy. To bring the buyer unto the table of distribution would be to unjustifiably interfere with the judgment of the court without a legal basis.
5. The judgment of the court remaining intact and only being disturbed by death of some of the beneficiaries must be enforced so as to bring matter to conclusion. For that reason, the court directs



that parties shall attend court on 29.01.2024 and address it on how to implement the certificate of confirmation of grant issued herein.

7. Each party shall bear own costs.

DATED, SIGNED AND DATED AT KAKAMEGA THIS 21ST DECEMBER, 2023.

HON. P.J.O. OTIENO

JUDGE

In the presence of:

Ms. Munihi for the petitioner

No appearance for the objector

Court assistant: Polycarp

