



In re Estate of Ernest Lungui Marango (Deceased) (Succession Cause 285 of 2013) [2023] KEHC 26419 (KLR) (15 December 2023) (Ruling)

Neutral citation: [2023] KEHC 26419 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KITALE
SUCCESSION CAUSE 285 OF 2013
AC MRIMA, J
DECEMBER 15, 2023**

BETWEEN

FLORA LUNGUI MARANGO 1ST ADMINISTRATOR

ELIUD LUNGUI MARANGO 2ND ADMINISTRATOR

AND

LEVITICUS LUNGUI MARANGO BENEFICIARY

RULING

1. Before Court for determination is a Summons dated 15th December, 2021, which was taken out by the Applicant.
2. The Applicant and the Administrators are some of the children of the deceased herein.
3. The Summons sought the following reliefs: -
 1. That the application be certified urgent and the same be heard forthwith *ex parte*.
 2. That this honourable court be pleased to commit the Respondent/administrators to prison for a period not exceeding one year or pay a fine to be determined by the court or both such fine and imprisonment for intermeddling with the property of a deceased person namely Ernest Lungui Marango, and more particularly one (1) Acre comprised in title number Sinyerere/Kipsaina/Block 1/Bistati/7 allocated to the Applicant herein.
 3. That the administrators, their agents, servants, assigns, employees and anybody acting for or through them be restrained from disposing of, leasing, wasting or in any other way interfering with one (1) Acre allocated to Leviticus Lungui, the applicant herein comprised in title number Sinyerere/Kipsaina/ Block 1/7.



4. In the alternative the administrators be ordered to forthwith remove a 3rd party in occupation of the said one (1) Acre and demolish the temporary structure erected thereon at their instance.
 5. The OCS Kipsaina be ordered to enforce compliance of the court order.
 6. The Administrators be removed as Administrators of the Estate for failing to perform their duties diligently and effectively.
 7. Costs be provided for.
4. The Summons was supported by the Applicant's Affidavit sworn on even date and also by way of written submissions dated 6th June, 2023. Some decisions were referred to therein.
 5. The Administrators opposed the application. They relied on a Replying Affidavit sworn by Flora Lungui Marango, the 1st Administratrix herein. The Administrators did not file any written submissions.
 6. This Court has duly considered that Summons, the response, the written submissions and the decisions referred to therein.
 7. It is undisputed that the Administrators were appointed on 5th October, 2016 and an Amended Grant of Letters of Administration Intestate issued. The grant was confirmed on 24th November 2016 and a Certificate of Confirmation of a Grant was duly issued forthwith.
 8. The gist of the Summons mainly rests on the averment that the Administrators have failed to discharge their duties in transferring the estate as confirmed. As a result, the estate has been prone to intermeddling whereas the Applicant's portion and that one for the Late Ernest Lungui Marango were sold to third parties.
 9. The Summons is, therefore, an attempt to enforce the completion of the administration of the estate.
 10. It is factual that the Administrators have not completed the administration of the estate since 2016 when the Grant was confirmed and the estate distributed. The Administrators in law are answerable to the beneficiaries and the Court. They are under a strict duty to discharge the administration of the estate expeditiously. Any delay in the transfer of the estate must not be inordinate and must be explained.
 11. This Court is of the considered position that it is better to, in the first instance, ascertain why the administration has not been completed. The reason being that there have been several earlier objections by other beneficiaries and, as such, this Court ought to look into ways of forging ahead. Depending on the response by the Administrators, then the Court will be able to determine whether there is need to change the administration of the estate and to grant further orders. Meanwhile, the determination of the Summons will be held in abeyance.
 12. Having taken that trajectory, the following orders do hereby issue: -
 - a. The Administrators shall appear before this Court in person on 23rd January 2024 to appraise the Court of the progress in the administration of the estate.
 - b. Counsel for the Administrators to ensure the Administrators appear before Court on the scheduled date.

Those are the orders of this Court for now.



DELIVERED, DATED AND SIGNED AT KITALE THIS 15TH DAY OF DECEMBER, 2023.

A. C. MRIMA

JUDGE

Ruling No. 1 virtually delivered in the presence of:

Mr. Wekhuyi, Learned Counsel for the Administrators.

Mr. Wanyonyi, Learned Counsel for the Applicant/ Beneficiary.

Chemosop/Duke – Court Assistants.

