

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

SUCCESSION CAUSE NO. 2036 OF 2000

IN THE MATTER OF THE ESTATE OF JAMES NJUGUNA KARIUKI (DECEASED)

HARRISON KAGUONGO NJUGUNA.....OBJECTOR

AND

ESTHER WANGARI NJUGUNA KARIUKI.....1ST RESPONDENT

SUSAN NYAMBURA NJUGUNA KARIUKI.....2ND RESPONDENT

RULING

1. On 29th November 2019 this court found the respondents Esther Wangari Njuguna Kariuki and Susan Nyambura Njuguna Kariuki (mother and daughter, respectively) guilty of contempt of the court orders issued by this court on 11th May 2018. The respondents were administrators in the estate of the deceased James Njuguna Kariuki, the 1st respondent's late husband. The respondents got a confirmed grant in which the 1st respondent was to hold the landed estate of the deceased in trust for herself and for the 2nd respondent and applicant Harrison Kaguongo Njuguna. She sold some of the properties subject of the trust. In the application subject of the orders of 11th May 2018 the respondents were to account for the assets they had sold, and the proceeds thereof and all the documents relating to the sale and transfer. They disobeyed the orders, hence the finding that they were in contempt.

2. I asked the respondent to show cause why they should not be punished for the contempt. Mr. Odhiambo mitigated for them. Counsel stated that his clients were on the verge of complying with the orders; that they had written to court for certified copies of the grant to be able to produce the record of account; that they needed to access the Buruburu House where the applicant who is 1st respondent's son is staying but that he had locked them out; and that they were on the verge of putting together the records of account.

3. These are the same excuses that the respondents gave during the application.

4. I appreciate that this is a family dispute, the mother and daughter on one side and son on the other. The 1st respondent was in a fiduciary position in relation to the property she held in trust for her son, the applicant. She abused the trust. Both respondents disobeyed orders that the court made.

5. Considering all facts, I order that the 1st respondent shall pay a fine of Kshs.200,000/= in default 6 months in jail. The 2nd respondent shall pay a fine of Kshs.100,000/= in default 4 months in jail. The fines shall be paid within 45 days, failing which each respondent shall be arrested to go and serve her jail term.

6. Each respondent has 28 days to appeal.

DATED AND DELIVERED AT NAIROBI THIS 22ND DAY OF NOVEMBER 2021.

A.O. MUCHELULE

JUDGE