

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 580 OF 1991

IN THE MATTER OF THE ESTATE OF CHARLES PETER ANGWENYI (DECEASED)

RULING

1. On 8th November 2013, I delivered a ruling wherein I declined to allow the executrix of the estate of the deceased to add a property described as LR No. 12146/5 Karen, Nairobi, to the will of the deceased, ostensibly to facilitate its administration in this cause. I held that the will as framed was incapable of dealing with property acquired after it was made, and directed the widow to seek its administration in intestacy.

2. Peter Siro Nyariki Angwenyi, a child of the deceased, has come to court by an application dated 29th January 2016, complaining that the executrix has caused LR No. 12146/5 Karen, Nairobi to be subdivided and the subdivisions transferred to her name. He argues that the said actions of the executrix are contrary to my ruling of 8th November 2013. He has attached to his affidavit a copy of the certificate of title in respect of the said property and the ruling of 8th November 2013.

3. There is nothing in the documents attached which show the authority under which the executrix caused the property to be subdivided and transferred to her. It is not alleged that she used the will or the grant of probate on record or the certificate of confirmation of grant herein to cause the said subdivision and transfer. It has not been alleged that she acted with the authority granted to her under the process issued to her in this cause.

4. I did on 8th November 2013 hold that the said property was not covered under the will of the deceased, and therefore it could not be administered through this cause, and it could only be administered in an intestate cause. The said asset is therefore not before this court. The court has no locus to make any orders relating to it in the cause.

5. The short of it is that the application dated 29th January 2016 is wholly misconceived and devoid of merit. I shall accordingly dismiss it with costs.

DATED, SIGNED and DELIVERED at NAIROBI this 8TH DAY OF DECEMBER, 2017.

W. MUSYOKA

JUDGE