



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 728 OF 1993

IN THE MATTER OF THE ESTATE OF MICHAEL CHEGE MWANGI (DECEASED)

AND

SUCCESSION CAUSE NO. 729 OF 1993

IN THE MATTER OF THE ESTATE OF PAULINE WANGARI CHEGE (DECEASED)

RULING

1. These two causes have not been consolidated. They touch on the estates of a husband and a wife, the survivors of whom are the same.
2. The deceased person in HCSC No. 728 of 1993 died on 10th November 1992, he was survived by three sons and eight daughters. Representation to his estate was sought by one of the sons and two of the daughters, being John Mwangi Chege, Priscilla Nyambura Chege and Margaret Wairimu Chege. A grant of letters of administration intestate was made to them on 14th September 1993. It was confirmed on 22nd April 1994, and a certificate of confirmation of grant of even date was duly issued. The deceased in HCSC No. 729 of 1993 died on 14th March 1987. She was survived by the same persons as those listed in HCSC No. 728 of 1993. Representation to her intestate estate was sought by the same individuals as in HCSC No. 728 of 1993 and a grant was made to them on 14th September 1993. The said grant was confirmed on 12th April 1994.
3. An application was lodged herein on 21st September 2015 at the behest of a survivor of the deceased, Wangari Chege. She sought consolidation of the two causes, accounts from the administrators and revocation of the grants. Her case was that although the two grants had been confirmed in 1993 and distribution of the estate ordered, the administrators had taken no steps to complete administration by distributing the estate to the beneficiaries. She argued that she was entitled to accounts for the long period that the administrators have been handling the estates without distributing them. There is a separate summons seeking accounts, dated 24th May 2016.
4. I have seen the responses to the applications. The administrators do not oppose consolidation, but are against the revocation. However, no plausible reasons have been given for the opposition, and no efforts have been made to explain the unreasonable delay in completing administration. No excuses are given of any possible difficulties that they probably encountered making it impossible for them to wind up the estates in terms of the confirmation orders.
5. When the matter was placed before me, I gave time to the administrators to render accounts. An effort has been made by the administrators to render accounts through documents that they have lodged in court. It should be up to the applicant to assess whether the said accounts are adequate. If she finds them

inadequate, she shall be at liberty take such steps as she shall please. I also gave time to the administrators to wind up the estate by distributing the assets amongst the survivors according to the certificates of confirmation of the grants on record. The matters were mentioned several times to facilitate the same, but the administrators failed to complete administration, and also failed to give any good reasons therefor.

6. Section 83 of the Law of Succession Act, Cap 160, Laws of Kenya, requires, at paragraphs (f) and (g) thereof, that the assets be distributed to the beneficiaries and administration be completed within six months from the date of confirmation of grant, and production before court a full and accurate account of the completed administration.

7. Both grants were confirmed on 22nd April 1994. The assets ought to have been distributed within six months from that date. The effect of this is that the administrators were given six months to complete administration, and in the event of any difficulty, to seek extension of the time by the court. These provisions are in mandatory terms. The administrators have not since 1993 complied with section 83(f) (g) of the Act. The estate remains undistributed and its administration incomplete. There is no evidence that extension of completion was ever sought or granted.

8. According to section 76 of the Act, the court may revoke a grant on its motion or upon being moved. One of the reasons therefor is where the administrators have not been diligent in the administration of an estate. Grant holders who fail to distribute the estates they administer within the period allowed in law and fail to seek extension as required by the law cannot be said to have proceeded with diligence with the administration thereof and more so if the default is for over twenty years.

9. I have been moved by the applicant. The application is yet to be argued. I should be giving directions on the disposal of the application. However, given the blatant manner in which the administrators have failed in their duties, I do not think I should wait further. I can revoke a grant *suo moto* upon chancing on material upon which a grant can be revoked. This is one such case.

10. I have been invited to consolidate the two causes herein. I do not think I should do so. The two relate to estates of two different persons. The survivors might be the same, but that is not sufficient reason for consolidation. The two matters can perhaps be handled together without their having to be consolidated.

11. The final orders that I shall make in the end are as follows-

(a) That the grants made in the two causes on 14th September 1993 to John Mwangi Chege, Priscilla Nyambura Chege and Margaret Wairimu Chege are hereby revoked;

(b) That fresh administrators shall be appointed from amongst the survivors of the deceased but excluding John Mwangi Chege, Priscilla Nyambura Chege and Margaret Wairimu Chege;

(c) That the matter shall be mentioned after thirty (30) days for appointment of fresh administrators;

(d) That all the children of the deceased persons shall be in attendance for the purposes of (c) above;

(e) That the fresh administrators shall wind up administration of the estate in accordance with the certificates of confirmation of grant dated 12th April 1994 within ninety (90) days; and

(f) That the two matters shall not be consolidated but shall be handled together.

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

W. MUSYOKA

JUDGE